

TOWN OF BROOKFIELD
SELECTMEN'S MEETING
TOWN HALL, BANQUET HALL

MINUTES OF SEPTEMBER 21, 2010

REGULAR SESSION

Chairman Rudy Heller called the meeting to order at 6:30 pm and led the group in the Pledge of Allegiance. Other members present: James Allen and Peter O'Connell.

Camera Operator: Sarah Heller

Press: Karen Trainor, Ruth Lyons, David Dore

Public: Michael Seery, Linda Lincoln, Karen Seremet, Cindy Mundell, John David Holdcraft, and Barbara Wilson

APPROVAL OF WARRANTS:

Mr. O'Connell moved to ratify the approval of the Expense Warrant of 9/14/2010 for \$322,516.96 and the pre-paid Expense Warrant for \$45,000 and to approve the Payroll Warrant of 9/21/2010 for \$168,860.33; Mr. Allen seconded; so voted.

APPROVAL OF MINUTES:

Approving of the minutes was passed over.

ACKNOWLEDGEMENT OF MONTHLY REPORTS & MINUTES:

Mr. Allen moved to acknowledge the receipt of the following monthly reports and minutes; Mr. O'Connell seconded; so voted.

Banister Common & Mall: 8/9/10; 9/7/10 Historical Commission: 8/10/10
Recreation Committee: 8/16/10 Local Cable Access: 8/3/10
Open Space & Master Plan: 5/19/10; 6/9/10

ANNOUNCEMENTS:

There were several announcements including the following:

Public Hearing: Tuesday, October 5 @ 7:15 pm as part of the Selectmen's Meeting. The Hearing will discuss the Town's Community Development Strategy and the Town's grant application in concert with the towns of Ware, Warren and Hardwick. We use the funding for individual home rehab work (i.e. roofs, windows, septic, etc.) and for free adult education.

Grant Applications: Pioneer Valley Planning Commission is accepting applications for grants to help fix up your home or septic system. The property must be occupied primarily by the applicant and meet certain generous low to moderate income guidelines. Contact the Selectmen's office (508-867-2930 x 10) for an application package

or call Ms. Laurel Foley at 413-781-6045. Note that this is a first-come, first-serve program and is part of a CDBG grant that Brookfield shares with Ware, Warren and Hardwick.

Apple Country Fair: October 9th from 10 to 4 on the Common. For last minute details and volunteers please call 508-867-9553 for more details.

Public Hearing: Regarding the CSX Bridge reconstruction (Route 148/Fiskdale Road). The Hearing will start at 7:00 pm on Wednesday, October 6th. The location is expected to be at the Elementary School but this will be confirmed.

Following the reading of the announcements the Board expressed their appreciation to all of those who worked so hard to make the Quaboag Plantation's 350th Parade such a successful event. Chairman Heller read the names of the individuals on Brookfield's 350th Committee and he thanked others, including William (Bill) Thompson who built the Selectmen's float, a replica of the Town Hall building. Mr. Allen said it was good to see all departments working together and Mr. O'Connell mentioned the articles that Sandy Couture had written for the special edition of the Quaboag Current. It was felt that the parade was "nicely balanced" and "each town was represented equally".

Note: Many of the items on this agenda were taken out of the Agenda order and are listed here in the order of their appearance at the meeting.

Old Business:

1. 92 QUABOAG STREET - UPDATE

The Board announced that they had received a copy of a letter to the Conservation Commission stating that the Town's appeal of the DEP's (Department of Environmental Protection) decision regarding the property at 92 Quaboag Street "was sent to the wrong place", was "too late", and the "substance of the appeal was not addressed". There will be no action by the Selectmen at this time. Mr. Nadeau said in his letter that he would pass the appeal to the right place.

2. WINTER CLOSING OF THE TOWN HALL

Following confirmation that the elementary school was available for winter meetings, the Board announced that the Town Hall will be closed every night of the week EXCEPT WEDNESDAY from November 1 to April 1 since the Town experienced considerable cost savings last winter for this same action. All public meetings held on other nights of the week must be scheduled for the elementary school or to another location. Committee chairs must contact the school to complete the necessary forms. The following information was received as to cost savings:

Fuel gallons used winter of	2006-7:	5087.1
	2007-8:	4145.4
	2008-9:	2246.8
	2009-10:	2146.0
Electrical costs for FY:	2007-8	3551.10
	2008-9	1714.03
	2009-10	845.02

3. **COMP TIME**

Mr. O'Connell said that there seems to be a conflict between the Board's policy and the town's by-laws relative to payment for compensatory (comp) time. He suggested that he meet with the Treasurer and other related departments to see how they are dealing with the issue and to come back to the Board with recommendations. The Board agreed. Mr. Allen also suggested a discussion with the Personnel Board about vacation time because several employees always seem to have a problem using their vacation time in the allotted time.

Other:

4. **DRAFT POSITION DESCRIPTIONS**

Since Mr. Heller was scheduled to attend the Personnel Board meeting at 7:00 pm this evening, Mr. O'Connell suggesting that the Board take this matter out of order.

Two new job descriptions for Municipal Clerk I & II were presented for the Board's review. These descriptions were the result of several conversations of the Board considering how best to re-arrange and share municipal duties among Town Hall department heads. Mr. O'Connell moved to forward the draft Municipal Clerk I and II Position Descriptions to the Personnel Board for their review and grading; Mr. Allen seconded; so voted.

Mr. Heller also presented a new job description for the Administrative Assistant's position, which changed the title to Town Coordinator, a reflection of the duties of the position. He said that the need to revise the position description was made even more obvious when he was conducting the Administrative Assistant's performance review. The description currently being used is dated July, 1999. Mr. O'Connell moved to forward the draft Town Coordinator Position Description to the Personnel Board for their review and grading; Mr. Allen seconded; so voted.

At 7:05 pm, Mr. Heller was excused to attend the Personnel Board meeting. He returned at 7:15 pm. In the meantime, Mr. Allen served as Chair.

5. **CSX BRIDGE RECONSTRUCTION - UPDATE**

Mr. Allen asked Mr. O'Connell to give a review of the Thursday, September 16, 2010 informational hearing that was held with representatives of the Commonwealth, of the company that has been contracted to perform the reconstruction and various elected and appointed officials.

The following is a summary of Mr. O'Connell's update of the company's proposal:

- Brookfield's bridge is one of seven to be reconstructed by the company and will be first because no steel will have to be ordered for this bridge. The contractor has a deadline for the completion of the renovation of all bridges.

They understand that we are concerned that our citizens should not be inconvenienced because of the way the contract was negotiated.

- The process of the re-construction was described. The representatives indicated that the bridge will be totally closed to all traffic and emergency vehicles only 2 days over one weekend. Emergency vehicles (including school busses) would be able to cross after the 48 hour period for the next week. Brookfield representatives indicated that even two days of not allowing emergency vehicles across the bridge is too much. They promised to re-evaluate and try to find a better way for emergency vehicles. They may make a grade crossing either at Lower River Street or at the end of Kimball Street.
- During the proposed 48 hour bridge closure and for a week thereafter, all other traffic would be detoured over Long Hill Road into West Brookfield. The detour for the regular traffic was discussed and was found to be impractical for trucks. They must be detoured long before they reach Long Hill Road as they won't be able to get up over that hill during the winter. It was agreed that more detour signs would be needed along Routes 9, 20, at the Turnpike, etc.
- Traffic Pattern throughout the life of the project: there will be three temporary, motion-activated lights installed. One light will be at the bottom of River Street on the north side of the bridge, one will be at Fiskdale Road south of the re-construction and one will be at Mill Street. Lower River Street will be closed off at the intersection with River, Mill and Fiskdale Road. Pleasant Street, from River to Howard, will be one way from River Street. This will force Pleasant Street traffic that would normally go south, up toward the village and then down River Street or alternatively, across Hyde and down Kimball Street to Mill Street.
- The Board of Selectmen stressed that costs born by the Town as a result of the traffic diversion should NOT be born by the Town.
- The re-construction will not affect the Apple Country Fair that is scheduled for October 9th.
- The bridge over the river is not part of this project but is scheduled for 2012. This will not be a design/build project (as is the CSX bridge) with work to be contracted out but the work will be done by the State with opportunity for "plenty of input by the town".
- A Public Hearing was established for Wednesday, October 6th at 7:00 pm at the Elementary School.
- Mr. O'Connell felt the State was responsive and cooperative.

6. OCTOBER 29 – SPECIAL TOWN MEETING - UPDATE

Mr. Heller reminded everyone that the deadline for acceptance of articles for the Special Town Meeting Warrant is Tuesday, October 5th. Mr. O'Connell added that if anyone has any budget figures to submit (savings or expenses) to let the Board know as soon as possible.

7. **FACILITIES USE REQUEST**

Mr. Heller announced that the State's Office on Disability had responded to the Board's query of whether or not they should allow closed-access use of the second floor of the Town Hall. The Board had given permission for filming of a 1950's dance scene in the Great Hall, pending approval by the Office on Disability. It was learned that, even though the second floor of the Town Hall is not ADA-compliant, the Great Hall can be used for events that are **closed to the public.**

8. **COMPUTER REPLACEMENT AND POLICY**

Mr. Heller reported that he had made no progress since the last meeting.

9. **ZONING ISSUES**

Mr. Heller stated that he has scheduled a meeting of the Building Inspector and the Zoning Enforcement Officer and will report back.

10. **POLICE CHIEF SEARCH - UPDATE**

Mr. Heller announced Mr. Michael Cloutier who had withdrawn his name from the final four candidates. It was agreed that Ms. Neylon would contact Mr. Donais, the other candidate whose interview was scheduled for Thursday, September 23rd to ask him to either move his interview up from 7 pm to 6 pm or to move it to Wednesday, September 22nd to 8 pm. The Board indicated since there were only three to interview that it preferred it would prefer to do them all on Wednesday evening. The Board left it to Chairman Heller to cancel the posted Thursday evening meeting if Mr. Donais could be scheduled on Wednesday.

11. **BY-LAWS AND BY-LAW COMMITTEE**

Ms. Cindy Mundell had requested the following be added to the Board's agenda for 7:30 pm on this evening:

By-Law Committee/need for:

Mr. Heller expressed the Board's agreement that a By-Law Committee was needed. At the Board's July 13th meeting, after Ms. Mundell expressed her interest in serving on this committee, the Board had asked Mr. Seery and Ms. Mundell to review the present status of the by-laws and to recommend a committee structure and charge to the Board.

Ms. Mundell stated that she had randomly searched the by-laws with Mr. Seery for accuracy and they "seemed to be in order". She further stated that the by-law book had been updated in 2008. The Selectmen pointed out a few errors they were aware of and Mr. Heller expressed the need to be able to track all changes to the by-laws.

Mr. O'Connell said that he felt the update of the printed by-laws "must be a priority." Mr. Allen suggested the by-laws be inventoried and eliminate any redundancies.

Mr. O'Connell suggested that each department mentioned in the by-laws review their own section and suggest changes to the By-Law Committee for their action. He said that the Town Clerk's primary responsibility is to make sure that all by-laws passed by the Town are forwarded to the Attorney General (AG) for review and approval. Currently each change, including addition or deletions of a comma and correction of typographical errors must be returned to the voters and the AG for approval.

By-Law Committee/creation/Charge:

Ms. Mundell stated that she believed that the Board was purposely not appointing her to this committee but each of the members disagreed. Mr. O'Connell indicated the Board has asked that after an earlier discussion on the subject with the Board that the Board had voted to ask the Town Clerk to come back to the Board with a recommended charge and composition for the Committee, with assistance from Ms. Mundell should she be willing to assist him. The purpose of the Board's request was to have agreement between the Board of Selectmen and the Town Clerk. The Board felt the minimal description of work done by the Town Clerk jointly with Ms. Mundell was insufficient to produce a new charge.

Mr. Heller reviewed the previous Charge which had several issues. That charge made appointments to the By-Law committee for only one year, but the consensus of the Board was for staggered terms. The Board discussed alternative ways of constituting the Committee, including the possibility that a member of the Advisory Committee, the Planning Board, Personnel Board and the Police Department should each be on the committee along with two or three citizens at-large. Mr. Seery expressed his feeling that he was overwhelmed with work and hoped that he could delegate the task of reviewing and revising the By-Laws to a committee, perhaps serving as a "de-facto" member. Mr. O'Connell felt that the Town Clerk's membership or non-membership would depend upon the function of the committee.

There was discussion of whether the Committee Charge should include the Committee's ability to propose By-Law changes or merely to review them. Ms. Mundell said the committee is needed to help draft by-laws. Mr. Seery said that he has been filing excerpts in a binder with the by-laws and that the Town may want to consider deleting some by-laws that are no longer necessary. He suggested using the original Charge and adding a review of the current by-laws for accuracy, omissions, etc. and to propose changes.

Conclusion:

Mr. O'Connell will work with Ms. Mundell and Mr. Seery on the Charge; the matter will be placed on the October 5th agenda to follow the CDS Public Hearing. It was agreed that the entire charge could probably be accomplished in one 1-hour meeting.

Section 30 of the current Personnel By-laws: Ms. Mundell also indicated that under her agenda request to discuss “By-Laws” she wanted to ask why the Board was violating Section 30 of the current Personnel By-Law having to do with the process to be used by the Town in making the appointments of the Treasurer and Tax Collector. Ms. Mundell said that she had called the Attorney General’s office about this Section as she felt the Board was in violation of the by-laws by not appointing the Tax Collector and Treasurer each to a three-year term in June of 2010. She said that two lawyers and officials at the AG’s office agreed with her belief that the non-reappointment of the Treasurer and the Tax Collector for three-year terms violated the Town’s by-laws.

Amended: 10/05/2010: Ms. Mundell said that the AG’s office had only referred her to Chapter 41 of the Mass General Laws, they did not give the opinion that the Selectmen were in violation of this by-law. She further said that it was two private attorneys that gave her their opinion that the Selectmen were violating Section 30 of the Town’s Personnel By-Law.

Mr. Heller then read the by-law aloud. Section 30 deals with the creation of a committee to initially fill these positions at the time when they went from elected to appointed. The final sentence in this by-law indicates the term of appointment will be “three years upon recommendation of the Screening Committee”. The Board felt that without further review of the bylaw this meant the initial appointment only but agreed to review this and discuss it again at their October 5th meeting.

When Ms. Mundell pressed the non-appointment issue, Mr. O’Connell explained that the Treasurer was appointed to a one-year term because the Board wanted time to consider the possibility of combining the Treasurer and Tax Collector positions. He noted that, based on advice from Town Counsel, the Board had voted not to reappoint the Tax Collector for any specific term but to continue her employment as Tax Collector through December, 2010 with the expectation that she would successfully meet certain benchmarks related to the collection of delinquent taxes and her becoming certified. The Board would then re-visit the matter of her reappointment.

Mr. Heller then closed discussion of this topic, indicating that the Board would again review the matter with Town Counsel and report its findings at a future meeting.

12. TAX TITLE - UPDATE

Mr. O’Connell has been working with the Tax Collector and the Treasurer to bring the collection of back taxes (period of 2002 – 2009) up-to-date. He indicated that the Tax Collector was finishing up on sending out the demand letters and that payments were coming in along with complaints from people who said that they had not been notified that they owed back taxes and consequently objected to paying the accrued 14% annual interest. He noted that Mrs. Moores had sent out formal demand letters to taxpayers delinquent on their 2010 taxes; they must either pay or enter into a payment plan with the Tax Collector before their names are turned over to Municipal

Management Association (MMA) on October 2, 2010. As of June 30th 2010, the total taxes owed for FY 2010 exceeded what was collected in delinquent taxes during 2002 – 2009 but that the interest and penalties collected by the Tax Collector for 2002-2009 exceed estimates by more than \$50,000, which will be reflected in Free Cash when it is certified later this year. .

Mr. O'Connell moved to ask for a report and recommendations from the Collector by October 2nd to give to MMA; Mr. Allen seconded; so voted.

Mr. O'Connell moved to ask the Treasurer to supply a listing of delinquents in tax title and give his recommendations for FY 2011; Mr. Allen seconded; so voted.

Mr. O'Connell also received permission of the Board to instruct the Tax Collector to include a letter in the remaining tax bills, as required by law.

The Board agreed that high delinquent balances mean that taxes are higher than they need to be. The Board went on record that when payment of delinquent taxes, fees and interest exceed the uncollected taxes for the current fiscal year, they will consider recommending to Town Meeting voters to use at least a portion of the funds to reduce the tax burden.

New Business:

13. COUNCIL ON AGING GRANT CONTRACT

The contract with the Commonwealth for funding for the Council on Aging was received from Barbara Clancy, Chairman of the Council on Aging. Mr. Allen moved to authorize the Chairman to sign; Mr. O'Connell seconded; so voted.

14. APPOINTMENTS AND RESIGNATIONS

The Board had received letters of willingness to serve on committees from Lois O'Leary, Mr. Jake Hill and Mr. Kyle Hill.

Historical Commission: Mr. O'Connell moved to appoint Lois O'Leary to the Historical Commission for a term to expire on June 30, 2012; Mr. Allen seconded; so voted.

Recreation Committee: Mr. O'Connell moved to appoint Jake Hill and Kyle Hill to the Recreation Committee, each for terms to expire on June 30, 2011; Mr. Allen seconded; so voted.

Mr. O'Connell moved to send a letter acknowledging the resignation of Sheila Frangiamore from her Treasurer Clerk position and thank her for her years of service to the community; Mr. Allen seconded; so voted.

Old Business:

15. BOARD PRIORITIES

As requested at the previous meeting, Mr. O'Connell submitted to the Board the revised Priorities listing. The Board agreed that each member review the priorities and bring back their suggestions to the Wednesday, September 29th meeting.

Correspondence:

16. PUBLIC HEARING – NATIONAL GRID

Mr. Heller read an announcement about a Public Hearing to be held in Boston on October 12th at 2:00 pm to review rate increase requested by the natural gas portion of National Grid.

17. LEGAL MEMORANDUM – EARLY RETIREMENT INCENTIVES

This legal memorandum from Town Counsel, Kopelman and Paige, was acknowledged.

18. LEGAL MEMORANDUM – ON PREMISES ALCHOLIC BEVERAGE LICENSING – RECENT STATUTORY AMENDEMENTS

The Board acknowledged receipt of this legal memorandum and asked Ms. Neylon to check with Town Clerk, Michael Seery, as to whether or not the Town had accepted the necessary chapter.

19. FINAL CLEAN UP OF HAT FACTORY

The Board received correspondence from the East Brookfield Board of Selectmen regarding a Brownfield clean up. No action was required.

Other:

20. OPEN SPACE AND MASTER PLAN TRANSPORTATION & GOVERNANCE CHAPTER

The Board acknowledged receipt of Part 3 of the Transportation and Governance Chapter and agreed to individually review and give their comments to Mr. Heller for combining and submission. This will be on the October 5th agenda as the Master Plan Committee needs the comments by October 15th.

21. GRANT NOTICES

Communication from Massachusetts Historical Commission (MHC) indicated several grants available for surveys and planning. This will be forwarded to the local Historical Commission and the Banister Common & Mall Committee.

22. EAST MAIN STREET

Mr. Heller said that he had received several telephone calls from residents interested in returning East Main Street/Elm Hill Road to “the way it used to be”. The Highway Department is interested in this as well. The project would include the removal of many trees that should not be within the 90 foot right-of-way. Mr. Heller said he intended to write a grant request for funding and to meet the November 15th deadline for a pre-application. The other Board members gave him their blessing.

23. SAVE OUR SOUND – ALLIANCE TO PROTECT NANTUCKET SOUND

No action was required and none was taken regarding this announcement from a group against wind turbines in Nantucket Sound.

Other:

24. REPORT FROM THE MEETING OF THE JOINTS BOARDS OF SELECTMEN

As Mr. O'Connell was the only Selectmen that could attend this meeting held Thursday, September 16th, he gave the following report:

- Inter-municipal purchasing: Johanna Barry of West Brookfield needs the names and address of companies from which each town purchases office and cleaning supplies for the purpose of seeking bids from those companies. The Town needs to appoint a resident to the Inter-municipal Purchasing Agreement Committee to review and award the bids. Mrs. Neylon will see if one of the staff who is a resident would be willing to serve on that committee.
- Application to MEMA for a Regional Hazardous Waste Monitoring Committee: Mr. O'Connell moved that the Board ask Fire Chief, Peter Martell, to attend the Wednesday, September 29th meeting to advise them on the next steps; Mr. Allen seconded; so voted.
- Regional approach to personnel management: A draft inter-municipal agreement was presented by North Brookfield Selectwoman Mary Walters for consideration by the Selectmen of the six towns to hire Kopelman & Paige (K&P) to provide unlimited consultation on personnel matters and to develop job descriptions, personnel policy manuals and evaluation procedures for the participating towns. The total cost will be \$24,000 to be distributed evenly among the membership communities (\$4000 per town) or alternatively by population, in which case Brookfield's share would be \$3,600. Both Mr. Heller and Mr. O'Connell noted that K&P expected to lose money on this proposal, but wanted to test the concept so it could market it to other regional groups. Mr. O'Connell moved to refer the proposal to the Personnel Board for their review and recommendation; Mr. Heller seconded; so voted.
- GASB Actuary: The group discussed a possible inter-municipal agreement to hire an actuary to help the towns meet GASB post-retirement obligations.

The Town of Warren may have already addressed this issue and will circulate information to the other Towns.

- Training session on the roles of Selectmen, Building Inspectors, Planning Boards, Zoning Enforcement Officers and others in regulating land use: The other Towns encouraged Brookfield to move forward on this. Mr. Heller said he is working with Kopelman and Paige to schedule the free workshop.
- Next Meeting: to be held at the Brookfield Town Hall on Thursday, October 21st.

25. PAYCHECKS

Mr. O'Connell reported that the Treasurer has reached agreement with the Town's payroll service to have paychecks show accumulated benefits beginning with November paychecks.

Public Access Period:

Mrs. Barbara Wilson reminded the Board that she would like to be appointed to the By-Law Committee. She said that she is only on one appointed committee, previously served on the By-Law Committee and feels that she would have the time. Mr. O'Connell wanted Mrs. Wilson to pass along their appreciation to the Elementary School Committee for taking the initiative to submit a Green Energy grant proposal to replace school windows with more efficient ones.

Mr. David Holdcraft cautioned the Board that, according to the Open Meeting Law, they couldn't change the hours of a meeting posting. He was referring to the posting for the meeting to be held on Wednesday, September 23rd and was assured that the Board was not changing the start time of this meeting. Mr. Holdcraft further stated that, in his opinion, the Selectmen were not obeying the town's by-laws but, when requested, he refused to be specific.

At about 9:19 pm, Mr. O'Connell moved to enter into Executive Session under the below listed exemption and return to open session only to adjourn; Mr. Allen seconded; so voted with Mr. Allen voting aye; Mr. Heller voting aye and Mr. O'Connell voting aye:

Exception Six - "To consider the purchase, exchange, lease or value of real property, if such discussions may have a detrimental effect on the negotiating position of the governmental body and a person, firm or corporation."

ADJOURNMENT:

As there was no further business before the Board, Mr. Allen moved to adjourn at 9:45 pm; Mr. O'Connell seconded; so voted.

Respectfully submitted,
Donna L. Neylon, Administrative Assistant

Date approved by Board: _____