



or call Ms. Laurel Foley at 413-781-6045. Note 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.

**Brush Collection Dates:** 8:00 AM-12:00 PM Brookfield Town Property, End of Herbert Road, Brookfield, MA - No Charge Brush Collection Days: Oct 9, 16, 23, 30 from 8AM - 12 PM at the Town's Herbert Road property. The Highway Department will staff and supervise but you must unload your brush yourself. Only your own, household brush (2" and smaller in diameter) will be accepted. Leaves and grass clippings are accepted at the Transfer Station with a permit. Sponsored by: Highway Department and Board of Selectmen. For more information, e-mail [dneylon@brookfieldma.us](mailto:dneylon@brookfieldma.us) or call 508-867-2930x10.

**Brookfield Cultural Council - Grand Deadline:** 9:00 AM-3:00 PM Brookfield Town Hall, 6 Central Street, Brookfield, MA. The Brookfield Cultural Council has set an Oct. 15 postmark deadline for organizations, schools and individuals to apply for grants that support cultural activities in the community.

**Note: Some 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. ON PREMISES ALCOHOLIC BEVERAGES**

Mr. O'Connell moved not to accept this option which would allow the sale and pouring of alcoholic beverages before 12 noon on Sundays; Mr. Allen seconded; so voted.

**2. CSX – CORRESPONDENCE AND HEARING REMINDER**

This item was on the agenda to serve as another reminder of the Public Hearing, sponsored by the Commonwealth, which will be tomorrow night at the Elementary School. Mr. O'Connell will be on vacation and Mr. Heller will be attending the Personnel Board meeting so Mr. Allen will represent the Board of Selectmen.

**3. TAX TITLE UPDATE**

Mr. O'Connell reported that the amounts received on collection of taxes during September were about \$26,000 in back taxes for the period of 2002 – 2009 and about \$15,500 collected for fiscal year 2010. The agreement has been signed with Municipal Management Associates to put the published thirty-three properties in tax lien status. This includes about \$280,000 in taxes, interest and fees.

4. **POLICE CHIEF SEARCH UPDATE**

Chairman Heller reviewed the unanimous decision of the Selectmen at their September 29<sup>th</sup> Special Meeting wherein they chose Michael K. Blanchard of Sturbridge, as the new Police Chief of the Town of Brookfield pending successful completion of physical and health examination and contract agreement. He also said that the Board would refine contract details in Executive Session at the conclusion of this meeting.

5. **OPEN SPACE AND MASTER PLAN CHAPTER – “GOVERNANCE”**

Mr. O'Connell asked for more time to review the segment between expenses and taxes in more; Mr. Heller agreed that more time was needed. The Board agreed on putting this back on their agenda for first meeting the first week of November.

6. **COMPENSATORY TIME**

This item was passed over in favor of a future agenda.

7. **BOARD PRIORITIES**

This item was also passed over in favor of a future agenda.

*New Business:*

8. **BY-LAW COMMITTEE & CHARGE**

Before the discussion of the revised By-Law Committee Charge, Ms. Mundell told the Selectmen that she had reviewed their draft minutes for September 21, 2010 and that, in the section relative to Section 30 of the Personnel By-laws, she felt that she had been misquoted or misunderstood. She told the Selectmen that she did not say that the Attorney General's office had told her that the Selectmen were in violation of this section, merely that they had referred her to Chapter 41 of the Mass General Laws. Further, she said it was two PRIVATE attorneys that had told her they thought the Selectmen were in violation of the by-law. The Board agreed to revise the minutes to so reflect Ms. Mundell's comments of today's meeting.

The charge, as revised by Mr. O'Connell was reviewed and agreed to by both Mr. Seery, Town Clerk, and Ms. Mundell. Mr. Heller wanted a revision in Section 4B (insert the words “for repeal” and one to 4C (insert the words “or Attorney General”).

Mr. O'Connell moved to accept the charge as amended; Mr. Allen seconded. During the discussion period, Mr. O'Connell withdrew his motion and Mr. Allen withdrew his second.

Following discussion; Mr. Allen moved to accept the charge as amended and pending the approval of the Town Clerk; Mr. O'Connell seconded; so voted.

**9. TOWN'S PERSONNEL BY-LAW, SECTION 30**

Mr. Heller announced that, following Ms. Mundell's accusation that the Board was in violation of Section 30 of the Town's Personnel By-Laws by not appointing the Tax Collector to a 3-year term, he had consulted with Town Counsel who had confirmed the Board's assessment of Section 30. Counsel felt that the section addressed the INITIAL APPOINTMENT and was silent with regard to any future appointment.

Mr. O'Connell said that he was involved in the writing of this section about ten years ago (when the Tax Collector and Treasurer's positions went from Elected to appointed) and was intended to be relative to the screening committee. He further stated that although the (state) law is silent with regard to the term length of the Tax Collector and the Treasurer, it is not for the Town Accountant position. This term must be three years. The Selectmen have the authority to make the appointment term lengths for the Tax Collector and the Treasurer. He reiterated that the Board had consulted with Town Counsel before the June appointments and again after Ms. Mundell's complaint.

Mr. Heller stated that as long as the discussion relates to the by-law he would allow the discussion to continue but if and as soon as the discussion would move to specific employees, he would discontinue the discussion.

Mr. Allen noted that the Tax Collector and Treasurer appointed terms may be three years because when they were elected that was the term length.

Ms Mundell said she wanted a copy of the legal opinion that the Selectmen received relative to Section 30.

**10. COMMUNITY DEVELOPMENT BLOCK GRANT – PUBLIC HEARING**

At 7:15 pm, Mr. Heller discontinued discussion of this subject and opened the Community Development Block Grant (CDBG) Hearing which was advertised to begin at 7:15 pm. Following the opening, the Hearing was turned over to Mr. William (Bill) Scanlan who is the Town's grant writer and CDBG grant administrator.

Mr. Scanlan explained the Community Development Strategy (CDS) and its purpose in the grant application process. He explained that the town expected to submit in December two CDBG applications. The first would be in conjunction with the towns of Ware, Hardwick and Brimfield. This application would be administered by Pioneer Valley Planning Commission (PVPC) and would consist of funding for

housing rehabilitation and for adult education. He explained that the town had happily been part of this application for several years and many residents of the town had been helped with septic, roof repairs, etc. along with free adult education courses being offered. The housing rehabilitation is on a first-come, first-serve basis and application are currently being taken.

The Town's CDBG Advisory Committee plans to re-apply for housing rehabilitation of the Housing Authority's two-unit property on Hayden Avenue. This, along with infrastructure projects had been applied for in February of 2010 but the grant was denied. Since the amount of the Hayden Avenue project was so small, the Town has asked for reconsideration but there has yet been no response. If the expected response is not favorable, this will be resubmitted along with the request for funding to pay for final design plans for infrastructure work to be done to Hyde and Hayden Avenue and to the intersection of Draper and High Streets. This was also part of the last application but, even though final plans are not mandatory, the Town lost points because no final plans were submitted.

Mr. Scanlan then reviewed the current CDS which was approved by the Selectmen last fall following the posted reviewing process. Some of the questions and discussions that arose were:

- Why is the Town "getting involved" in the Finney property Brownfield application? It was explained that the spills several years ago could affect the neighboring property, property values and economic development in the Town. The Town's assistance could help to get the property back on the tax rolls and bring some business to Town. The funding for the Brownfield Phase I was through Central Massachusetts Regional Planning Commission (CMRPC). The Town applied on the Finney's behalf and there was no cost to the Town. It is anticipated that the Town will apply for Phase II/III.
- Why does it seem that the grant money is "always" spent in the village part of the Town and not across the river? Mr. Allen explained that the process is income-based and even though the residents on the other side of the river are not always better off financially, those in the village are more concentrated.
- Why do you need final plans and where do you get the money from for final plans if you don't get by a grant? In order to get grant funding, most projects (such as for the Town Hall Barrier Removal) need architectural plans and funding for these plans must be approved by the voters of the community.
- How are the "priorities" chosen? In the past, for Brookfield, usually the projects that the Town is most interested in getting funding for in the next grant application are listed first, otherwise the numbers given the priority do not signify their importance as all of those listed are important to the community.
- Mr. Heller noted that he had met with the members of the Council on Aging earlier this week and they had pressed upon him that the Seniors very much need a place in town dedicated to their use. Mr. Comtois, a carpenter and Brookfield resident, said he was a construction supervisor and volunteered to help with plans for a Senior Center.

As there were no further questions or comments, Mr. Heller closed the Hearing at 7:52 and thanked everyone for attending and Mr. Scanlan for his assistance.

**9. TOWN'S PERSONNEL BY-LAW, SECTION 30, continued**

Ms. Mundell again spoke her request for the Town Counsel's opinion in writing. Mr. Heller said that he would do so. He then spoke relative to a story that was in an area newspaper last week. The paper had a story about the September 21, 2010 meeting where Ms. Mundell charged the Selectmen with violating the town's by-laws and had several mistakes which he wanted to correct:

- The By-Law Committee was never "dissolved" but it is inactive as it has no members;
- Cindy Mundell is not a former member of this committee, however, she did ask to be appointed and the Board asked her first to consult with the Town Clerk to see how much work would be needed to be done to bring the by-laws up-to-date;
- Ms. Mundell's request to be appointed was not accepted previously pending her review with the Town Clerk and she and the Clerk coming back to the Board with their recommended course of action.

**11. CDBG PAYMENT #4**

Mr. O'Connell moved to approve Payment #4 to Pioppi Construction in the amount of \$131,022.42; Mr. Allen seconded; so voted. The amount has already received review and approval of Stantec Engineering and Mr. Scanlan, the grant administrator.

**12. SELECTMEN'S AGENDA**

This was passed over for a future agenda.

**13. REQUEST TO USE TOWN COUNSEL BY TAX COLLECTOR**

The Board received a request from Tax Collector, Lois Moores, to inquire of Town Counsel in a tax title matter. Mr. O'Connell moved to authorize the request; Mr. Allen seconded; so voted.

**14. TAKE ROOT PROJECT**

This was also passed over.

**15. APPOINTMENT – LOCAL CABLE ACCESS COMMITTEE**

A request was received both from Mr. James Sniffen and from Sharon Mahoney, Chair of the Local Cable Access Committee to appoint Mr. Sniffen to their only

vacancy. Mr. O'Connell moved to appoint Mr. James Sniffen to the Local Cable Access Committee for a term to expire on June 30, 2013; Mr. Allen seconded; so voted.

**16. COMMITTEE NAME CHANGE REQUEST**

The Local Cable Access Committee requested that their name be changed to "Communications Committee" since they are also dealing with the Town's webpage. Mr. Allen moved and Mr. O'Connell seconded the name change to Communications Committee. During discussion, when the question arose as to what were the ramifications of the name change; Ms. Mahoney asked that the question be passed over until she could research the matter. Mr. Allen withdrew his motion and Mr. O'Connell withdrew his second.

**17. SPECIAL TOWN MEETING ARTICLES**

Late Bills: Mr. Allen moved to include the first five articles on the draft warrant; Mr. O'Connell; so voted. These were all late bills.

Location of Meeting: Mr. O'Connell moved to change the location of this meeting from the Town Hall to the Elementary School, if it is available, Mr. Allen seconded; so voted.

Right-to-Farm By-Law: Mr. Allen moved to include this by-law, as worded but subject to possible modifications; Mr. O'Connell seconded; so voted.

Library Book Account: Mr. Allen moved to include this article on the warrant which would add \$1,616 to the Library Book Account; Mr. O'Connell seconded; so voted.

Regional Transportation: Mr. O'Connell suggested that this article be moved up because he felt the voters should know where money is coming from and if this article is accepted, some could come from this amount. Mr. O'Connell moved to include this article; Mr. Allen seconded; so voted.

Computer Maintenance Account: Mr. Allen moved to include this article; Mr. O'Connell seconded; so voted.

Municipal Clerk I and II job descriptions: Mr. O'Connell had suggestions for changing the wording of this article that would include these job descriptions in the Personnel By-Law. Mr. O'Connell moved to include this article; Mr. Allen seconded; so voted.

Funding for Municipal Clerk positions: Mr. O'Connell moved to include this article pending discussions and vote of the Personnel Board; Mr. Allen seconded; so voted.

Town Coordinator Position Description: The Selectmen agreed to change this back to Administrative Assistant and to re-grade the position. They recognize that the current job description (1999) is different from what the Administrative Assistant is currently asked to do. This could result in a change in pay.

Funding for Administrative Assistant Position: Mr. O'Connell moved to include this article pending discussions and vote of the Personnel Board; Mr. Allen seconded; so voted.

Real Property Procurement: Mr. Heller read a press release that he had written that explained this article. The Town has the opportunity to purchase three lots that abut

the Town Hall property; one of the three lots includes a dwelling. It is the Selectmen's intent to use the open lot for an exit for the fire trucks and for additional parking. Additionally, some of the land could be used for a septic system for the Town Hall. Mr. O'Connell moved to include this article; Mr. Allen seconded; so voted.

Public Informational Meetings: Mr. Heller entertained a motion to post two Selectmen's meetings as informational meetings when the Board would review and answer questions on the Warrant; said meetings to be on October 14 and 26 at 7:00 pm in the Banquet Room of the Town Hall. Mr. O'Connell so moved; Mr. Allen seconded; so voted.

Police Cruiser: Mr. O'Connell moved to include an article to accept the insurance carrier's check of \$27,335; Mr. Allen seconded; so voted.

Police Cruiser: Mr. Allen moved to include an article that transfer the \$27,335 and raise and appropriate or transfer the balance of \$4,489 necessary for the total of \$31,833 to pay for the new cruiser; Mr. O'Connell seconded; so voted.

Banister Common & Mall Committee: Mr. Heller said that he had spoken with Mrs. Wild, Chairman of this committee, who agreed to remove the possible article.

Highway Labor Account (add to): Mr. O'Connell moved to include this article; Mr. Allen seconded; so voted.

Tax Amnesty: Mr. Allen moved to include this article; Mr. O'Connell seconded; so voted. This is limited to real property.

Town Hall Roof repair funding: Mr. Allen moved to include this article; Mr. O'Connell seconded; so voted.

Unemployment Account: Mr. Allen moved to include this article for additional funding; Mr. O'Connell seconded; so voted.

Treasurer/Tax Collector Tax Title Account: and Legal Expense Account: and Veterans Expense Account: Mr. O'Connell moved to include all three articles on the warrant; Mr. Allen seconded; so voted.

Maturing Debt - Elementary School: and

Maturing Interest – Elementary School: Mr. O'Connell moved to include both articles on the warrant; Mr. Allen seconded; so voted.

Transfer from Police Full-Time Wages to Part-Time Wages: Mr. O'Connell moved to include this article; Mr. Allen seconded; so voted.

Initiative Petition: This petition asked the voters to change the Tax Collector's position to elected. The Town Clerk certified 248 signatures. Mr. O'Connell moved to include this as an article on the warrant; Mr. Allen seconded; so voted.

Add to Stabilization Account: Mr. O'Connell moved to include this article on the warrant; Mr. Allen seconded; so voted.

Reduce Tax Levy: Mr. O'Connell moved to include this article on the warrant; Mr. Allen seconded; so voted.

Mr. Heller will review the articles with the Administrative Assistant prior to sending the warrant off to Town Counsel for her review. The Board agreed that Town Counsel should come to the Special Town Meeting.

*Correspondence:*

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Minutes of Board of Selectmen, Regular Meeting

October 5, 2010

18. LEGAL MEMORANDUM – SNOW & ICE REMOVAL ON MUNICIPAL PREMISES
19. AGENDA – CMMPO FOR 10/6
20. MUNICIPAL RIGHT OF WAY PROCESS FROM A TO Z
21. CMRPC – FALL TRAINING COURSES
22. CHARTER ANNOUNCEMENT OF ADJUSTMENT TO CHANNEL LINE-UP
23. TANTASQUA BUDGET REVIEW LETTER
24. CHARTER COMMUNICATIONS ANNUAL FCC FORM 1205 RATE JUSTIFICATION FILING

Mr. O'Connell moved to acknowledge receipt of all of the above correspondence; Mr. Allen seconded; so voted.

***Public Access Period:***

Mrs. Barbara Wilson asked the Board if the current Tax Collector was sworn in as Tax Collector or as an extended employee; she asked what was an “extended employee” and “where does that show up in the Personnel By-Law”? Mr. O'Connell explained that the Tax Collector is continued as a “hold over employee under her original appointment”.

Mr. David Holdcraft complained that the “Zoning By-Laws” were not clear; “nothing seems to be clear on Section 30”; the Zoning Enforcement Officer and the Zoning Board of Appeals interpret differently. Why can't the by-law be clear cut? Why didn't you make appointments to the By-Law Committee in May? Mr. Allen responded that, in many instances, laws are not clarified until they are brought to court and then they can be interpreted differently in each case.

At about 9:30 pm, Mr. Heller entertained a motion to enter into Executive Session under the below listed exemption and return to open session only to adjourn; Mr. O'Connell so moved; Mr. Allen seconded; so voted with Mr. Allen voting aye; Mr. Heller voting aye and Mr. O'Connell voting aye:

**Exception Two** - "to discuss strategy with respect to litigation if an open meeting would have a detrimental effect on the government's litigating position"

**ADJOURNMENT:**

As there was no further business before the Board, Mr. Allen moved to adjourn at 10:13 pm; Mr. O'Connell seconded; so voted.

Respectfully submitted,

Donna L. Neylon, Administrative Assistant

Date approved by Board: \_\_\_\_\_