

Approved 8/3/11
3-0-0

**SELECT BOARD MEETING
July 6, 2011**

Present: Select board – Norm Russell, Doug Field, Paulette Leukhardt
Executive Assistant – Mary Fitz-Gibbon

Minutes: A motion was made by Mr. Field, seconded by Ms. Leukhardt, and unanimously voted, to accept the minutes of June 22, 2011. A second motion was made by Mr. Field, seconded by Ms. Leukhardt, and unanimously voted, to accept the minutes of June 29, 2011.

Appointments –

Use of Town Hall: Present: Nan Parati

Ms. Parati advised the Board that some people are planning a wedding at the Community Golf Club on Norton Hill, with a reception at "The Inn." She asked about possible use of town hall if the weather were really, really bad. The wedding would be held upstairs and the reception downstairs. Mr. Russell said there was an issue of public/private vs truly private. If it were an event open to the public, town hall could be used, but as weddings are generally by invitation only the answer was that it could not. A question was then asked about permitting requirements for tents. Tent size is the determining factor; the building inspector can provide additional information.

Municipal Lighting plant

At a Special Town meeting and again at the Annual Town meeting the Town voted to create a Municipal Lighting Plant. The purpose of doing this was to take advantage of existing legislation to create a vehicle for improving telecommunication services in the Town. The next step as authorized by the votes, is to create a Municipal Lighting Plant Department with the Select Board serving as its Board of Directors. A series of motions were made and voted by the Board in order to initiate the process.

1. A motion was made by Mr. Russell to appoint Ms. Leukhardt as secretary of the Select Board. Mr. Field seconded the nomination. The vote was two in favor and one abstention. (2-0-1)
Ms. Luekhardt's role, as secretary, is to certify all votes taken.
2. A motion was made by Mr. Field to authorize the Select Board Chair to take any and all actions necessary to effectuate the purposes of these votes. Ms. Leukhardt seconded the notion. The vote was unanimous.

At this point Mr. Russell called for the Select Board meeting to be adjourned in order to hold a Lighting Plant meeting.

Meeting of the Municipal Lighting Plant Board

Present: Municipal Lighting Board – Norm Russell, Doug Field, Paulette Leukhardt
Interim Executive Administrator – Mary Fitz-Gibbon, David Kulp,

The meeting was called to order by Chair, Norm Russell.

The first order of business was to appoint a secretary to certify any votes taken during this meeting which has been called to establish the Municipal Lighting Plant Board.

1. A motion was made by Mr. Russell, seconded by Mr. Field, and voted, to appoint Poullette Leukhardt as secretary of the Lighting Plant Board. The vote was two in favor, one abstention. (2-0-1)
2. A motion was made by Mr. Russell, seconded by Mr. Field, and unanimously voted to appoint David Kulp as Manager of the Municipal Lighting Plant. Mr. Kulp accepted the appointment.

Since the purpose of the Municipal Lighting Plant Department is to bring improved telecommunication services to Ashfield, attention was turned to the plan to join the soon to be formed WiredWest Cooperative. Draft bylaws and agreements were available for review and discussion. The initial meeting of Town representatives is scheduled for July 16, 2011.

Proposed Agreement and Bylaws - Mr. Russell reported that he had asked Town Counsel to review the proposed WiredWest Cooperative Agreement. She had concerns that the document did not include protection of the Town against financial liability. She suggested language be added to the agreement and also to the WiredWest bylaws to the effect that, "this agreement and all further actions of the WiredWest Cooperative be subject to availability of funds being appropriated by the Select Board and/or vote of Town Meeting."

Mr. Kulp said this had been discussed with counsel for the co-op, who thought this wording was unnecessary, but did amend the WiredWest Coop agreement to add "all amounts paid by the Coop shall be approved by the member" to item 2.7.2. However, Mr. Russell said the problem with this was that the added provision was in the same paragraph as one dealing with annual fees, which does not address more substantial financial commitments. He found this not acceptable.

Mr. Kulp thought the necessary language could be added at the cooperative meeting scheduled for July 16th. Mr. Russell suggested that Mr. Kulp, as the Manager and Town's representative, be charged with seeing that language is included which protects the Town(s) from financial commitments without obtaining appropriate agreements from the various towns. He stated that Ashfield will not join the cooperative until such language is added and Town Counsel finds it acceptable.

Mr. DeHerdt suggested that the Ashfield delegate to the Cooperative make the proposed amendment at the meeting on Saturday, July 16th, and explain to the other members that this amendment is intended to protect member towns from being exposed to matters to which they would not want to be exposed. If the group votes to amend the bylaws Ashfield will join; if the vote is not to amend, then Ashfield will withdraw. Mr. Kulp agreed to make the motion to amend. He requested that he be provided with language which would be acceptable. If it were approved at the meeting, he would join on behalf of Ashfield. If it is not, he would not commit the Town. Such action would not preclude Ashfield from joining at a later date.

Termination of membership – Mr. Russell read a portion of the agreement concerning a town's ability to depart from the cooperative. Termination notification must be in writing two months prior to the intended termination date, provided WiredWest has not entered into financial obligations (loans/bonds) based upon participation of said member. Liabilities under contract at the time of such termination shall not be affected except to the extent provided in such contracts.

A motion was made, seconded, and voted, to adjourn the Lighting Board meeting.

The Select Board then reconvened in open session.

Animal Control: Present – Warren Kirkpatrick

Mr. Russell recalled that the Board decided some time ago that people who did not have their dogs licensed would be cited. A certain amount of time was given; only four persons have not responded. Mr. Kirkpatrick said the Town hasn't taken delinquent dog owners to court for the past four years. He noted that three of the four dog owners have been on that list all four years. He feels they don't register their dogs because nothing will happen to them. The Town's concern is not so much the licensing, as it is proving that the dogs have current rabies vaccinations. Mr. Kirkpatrick gave a brief explanation of what happens should someone be bitten. Having notified the Board, he will now move forward with the process.

Shade Tree policies: Present: Harry Dodson and Susan Todd

Mr. Dodson said he and Ms. Todd were present to express concern about the tree clearing that is in progress. He said he has talked to Jim Murphy from Asplundh and has a call into WMECO. Dodson is all for pruning of trees to prevent interruptions in electrical service, but he feels they have gone overboard. He could see that some trees were at the end of their lives, but a lot of healthy oaks have been taken out that didn't need to be. He thinks it would be good for the Town to follow the guidelines of the Public Shade Tree Act, an old law that's been on the books, possibly over 100 years. It gives official protection to trees in the public right-of-way. The Act requires a public hearing prior to removal of trees, except in the case of removal for public safety.

Mr. Dodson suggested the Town could establish a Tree Committee, appointed by the Select Board and including the Tree Warden, possibly a Conservation Commission member, and citizens with knowledge of trees. Mr. Dodson said a Tree committee, which he and Ms. Todd are interested in, could do a lot to raise awareness, promote interest, and even raise private funds for maintaining the Town's trees.

Another idea is designating roads as Scenic Roads. RT 112 is a state scenic road. Smith Road is a local scenic road. Burying of utility lines, although costly might be considered. Mr. Field said he thought that when Main Street was done a conduit was laid alongside the highway. [During the water and sewer work in the late 1990's, a conduit was laid along Main St. for future use in laying of optic fiber.]

Mr. Dodson, commenting that clearing seems to be continuing along RT 116 toward Conway, asked if anyone knew why this is being done. The Board had not been appraised about the project. One possible explanation of this apparent oversight is that according to the Shade Tree Act, Mass Highway Department (now MassDOT) may manage the trees along state highways without a hearing. Some thought that the work on RT 116 (Conway Rd) is being done for the power company, possibly to bring in 3phase capability.

Susan Todd gave a background of a community tree planting effort done about 20 years ago to replace the double row of trees that formerly lined Main Street. She talked about how a group of residents raised money and planted more than a hundred trees in honor of persons who had lived in Ashfield. There is a plaque in the park with the names of persons honored.

If a member withdraws from the cooperative at any point before committing to a financing contract annual fees that have been paid are not refundable. One time membership fees are not refundable. A member may only withdraw from the cooperative, after committing to a financing contract, with the formal consent of the affected creditors and upon terms and conditions acceptable to the cooperative and such creditors.

General Discussion - Mr. Russell said there is a lot of language in this agreement that protects the financial interest of the WiredWest Cooperative. He reminded that the Town had been assured from day one that there would never be an issue of Town money being committed without first obtaining approval of the Town. "We're totally supportive of this effort," he said, "but we had it vetted by Town Counsel and she raised this concern: there's nothing in the contract that protects the Town." If Town Counsel, who's got 30 years experience in municipal law in Massachusetts, and represents many towns, seems to think some wording is necessary, Mr. Russell said, he had no choice but to go forward as she recommended.

Ms. Leukhardt agreed with Mr. Russell that it seems odd that the Town is expected to join prior to the finalizing of the bylaws and the agreement. It seems like there should be some kind of provisional status until the final bylaws and agreement are in fact complete.

Ashfield has voted the money for joining. It is just asking for clear concise, definitive language saying that WiredWest can't go out and sign a multi-million bonding agreement without Ashfield and all the other towns agreeing to it as well. WiredWest will be an independent cooperative with eminent domain powers. It is sort of a version of WMECO; the difference being that it is a cooperative.

Mr. Kulp said he was in agreement with Mr. Russell's comments. He was sure there would be no problem in making the revisions /additions requested. The only down side of not joining immediately, is that only people from initial member towns, i.e. those who join on the 16th, can be on the executive committee of the organization. Once the co-op is formed, an executive committee is needed to start doing business. Mr. Kulp said he wasn't interested in serving on the executive committee.

Mr. Field suggested that the Board wait until this is straightened out, possibly by the next Board meeting, July 20th. Mr. Russell said a vote could be taken at this meeting (July 6th), contingent upon resolution of the concerns expressed tonight, or a decision could be delayed until changes are made that reflect the concerns. Mr. Kulp said ideally the documents could be revised, found acceptable, and could be certified by the meeting on the 16th, alternatively he thought it would be wise to wait. Mr. Russell was not certain of counsel's availability. He thought it prudent not to rush.

3. A motion was made by Ms. Leukhardt, seconded by Mr. Field, and voted that: a) the Light Plant join WiredWest, contingent upon review and approval of the final Agreement and Bylaws; b) David Kulp be appointed manager; and c) that the Manager be hereby authorized to execute any and all documents necessary to effectuate the purposes of these votes after final approval. The motion passed unanimously.
4. A motion was made, seconded, and voted to appoint Adam Smith as the alternate representative.

Mr. Kulp and Mr. Smith will attend the July 16th meeting with the language to be proposed for acceptance as part of the Agreement and Bylaws.

Ms. Leukhardt asked about the possibility of obtaining a donation from Asplundh, since that company is allowed to park its vehicles and equipment at the highway garage. Mr. DeHerdt thought this was a good idea. He raised the point that there are people in Town who do tree work for a living and could have benefited from this job. They would have had a vested interest in not taking healthy trees, just because it's the easiest way to do the job.

Mr. Field made a motion, that was seconded by Ms. Leukhardt, and voted, to form a tree committee. During discussion Mr. Dodson suggested "they" do a little more research, call surrounding towns, contact Boston, etc and come back with a proposal, including suggestions for members.

Transfer Station: The new hours at the transfer station on Thursdays 8:AM to 12:noon according to the *Recorder*. This is not what the Board had discussed. The Board had recommended afternoon hours. Mr. Field reported that when asked, the attendant, who worked there previously, said the busiest hours had been the morning hours.

Planning Board: Solar Bylaw Present – Mike Fitzgerald

Mr. Fitzgerald stopped by to announce that the proposed bylaw for large scale ground mounted photovoltaic facilities was ready for appearance on a warrant to be approved by the Town. The Planning Board has held the public meetings and has voted to recommend it in its current form.

It is anticipated that there will be a need for a special town meeting sometime in August because of the school issue. This can be added to that warrant.

Mr. Russell said this is actually very timely, as there is a firm interested in installing a solar facility in Ashfield. Without a town bylaw such a facility could be installed by-right. Mr. Fitzgerald said this is true. He went on to say, one section of the law says a town may not unreasonably regulate solar installations, another section says a town can't deny residential installation, and if the town is a green community there has to be a section allowing these things. The fact of the matter is, if the use is for commercial purposes, it would be done by special permit, so it would turn into a site plan review. If something were obviously unsafe in the plan the Planning board would be allowed to make them change it, but that's it. The proposed bylaw sets standards, similar to what a building inspector would use for someone desiring to build a house. The situation is similar to cell towers, in that you can't deny a radio tower, but you can put regulations on them.

OLD BUSINESS

Shredding: Ms. Leukhardt would like to talk about this at a meeting. Ricki reported she'd checked on obtaining information about a shredding company. She said it takes just a few minutes to do the shredding, which is less expensive than having an employee spend time doing it. Mr. Russell reminded that "you have to have the stuff ready."

Library Alarm System update: Ms. Fitz-Gibbon said the library didn't seem to have a copy of the contract, so she's been in contact with the firm involved to obtain a copy.

Assessors request for transfer of funds: Ms. Fitz-Gibbon explained a previous shortfall caused during a change in accountants. Mr. Field made a motion, seconded by Ms. Leukhardt, and voted, to approve the transfer of \$1,890 from the Assessors Clerk account to Assessors Expenses account. The Finance Committee will need to approve.

Tri-State Mutual Aid A motion was made by Mr. Field, seconded by Ms. Leukhardt, and voted to sign the Tri-state mutual aid agreement.

Police Dept.

Ms. Leukhardt read a letter received by Chief Dronney from American Red Cross Pioneer Valley Chapter, dated July 11, 2011. The letter said in part:

"This spring the Red Cross has responded to multiple tornados that have devastated communities across the USA. Among those states affected, Massachusetts was severely impacted by violent tornados leaving hundreds of houses damaged and destroyed. With your support, the Red Cross can take immediate action providing food, shelter, and comfort to those driven from their homes by this disaster. Thank you.

We are grateful for your efforts to raise funds to support our disaster relief efforts. Your gift of \$150.00 received on 6/21/11, representing donations you collected, designated to Massachusetts tornados, helps the Red Cross assist those in needs following these destructive tornados.

In Massachusetts we have served meals, sheltered hundreds of people, supplied clean-up and comfort kits and provided health services and mental health support. The Red Cross is also working closely with local partners to address needs and connect those affected to resources to get their lives back on track. We are grateful to have your support.

On those rare occasions when donations exceed RC expenses for specific disaster contributions are used to prepare for and serve those affected by other disasters. To learn more about your gift at work, please visit RC.org or call 413-233-2103.

Once again, thank you for your generous gift to the American Red Cross relief efforts in Massachusetts. Sincerely, Rick Lee, Executive Director, Page Thayer, Deputy Director "

In addition to the money collected a full truck load of food and clothing was taken to the Springfield area as part of Chief Dronney's effort to help. Contributions were also made to the Salvation Army.

Police vehicle: The Explorer is scheduled to be torn down on July 18th for the purposes of repairing it. Unless there are some unforeseen issues the vehicle should be back around July 21st. Mr. Field commented that many times a lot of us ignore bulletins put out by manufacturers. In this case the warning was about aftermarket oil filters. He said an aftermarket filter was used and it was sucked right into the motor.

235 Main Street The property is abandoned and in foreclosure. The Police Chief has been looking at it to see if it could be used by the Town for town offices or something. He has learned it seems to be tied up in some sort of legalities. There isn't a clear title to the property. The Fire Chief visited the building recently, to investigate a report that there was a leaking oil tank, which appears to be unfounded. The interior of the building is a mess. Ms. Leukhardt said the Police Chief was looking for a point of contact.

Emergency call system Mr. Field said he would look further into emergency systems.

FRTA A representative is needed to serve on the FRTA Advisory Board. Ms. Fitz-Gibbon will look into this further.

Public Comment

Ricki Carroll said that at the special town meeting there should be a question about swimming nude in Ashfield Lake. Mr. Field said it happens more often than people think. Someone asked him how he knew and he said one night emergency people were called out to rescue an individual who was completely nude when he dove into the water, landing on his head.

Ms. Leukhardt moved that the meeting adjourn. It was seconded and voted. The meeting adjourned at 9:10 PM.

Respectfully submitted,
Priscilla Phelps