

SELECT BOARD MINUTES January 13, 2010

Present: Select Board members Ted Murray, Tom Ulrich and Dave DeHerdt

Approximately 50 residents

The meeting was called to order at 7:05 p.m.

Hearing – A hearing was conducted for the public to ask questions and/or provide feedback to members of the Select Board regarding a letter received from the District Attorney's office dated December 29, 2009. In that letter it was found that the Ashfield Select Board violated the Open Meeting Law by engaging in certain email discussions of substantive matters during the summer and early fall of 2009, and that the Select Board improperly convened emergency meetings during July 2009. The findings of the DA's office and recommended remedies are explained in this letter. (Copies of this letter and the relevant emails were made available the prior week at Town Hall, and excerpts from the letter were published in the Greenfield Recorder.)

Former Select Board member Susan Todd agreed to serve as Moderator of the hearing so that the present Select Board members could fully devote themselves to hearing and considering observations and comments from the public. Several people spoke and asked questions. Among the issues raised were:

1. The importance of the Board taking their time in making decisions.
2. The issues surrounding the resignation and unemployment hearing of former assessor's clerk Linda Levitre.
3. The missing emails and letters and their relationship to John Svoboda.
4. The criminal charges against John Svoboda.
5. The issue that respect and cooperation have been missing and the slate should be cleared to start over.
6. The town's liability for illegal meetings.
7. It was the entire Board that violated open meeting law. The importance of the the Board understanding the agendas of people. The importance of not retaliating against people for coming forward. The liability the town will be exposed to if it attempts to clean the slate.
8. Issues surrounding the honesty of the police department.
9. If police officers are being investigated, could they and should they be reappointed?

The hearing concluded at 8:00 p.m., and a 10-minute break was taken before proceeding with the regular Select Board meeting.

Minutes – It was moved and seconded that the minutes of the open session of January 6 be approved as amended. The vote was unanimous in favor. It was moved and seconded that the minutes of the executive sessions of January 6 be approved. The vote in favor was unanimous.

Appointments – It was moved and seconded that Nancy Garvin be appointed the Historic Commission. The vote in favor was unanimous.

Wayne Sampson, Executive Director of the Massachusetts Police Chiefs Association, was introduced and asked to speak about the various options that the town might undertake in securing renewed leadership for the Ashfield Police Department. He spoke to several issues, most notably the importance of re-establishing trust between the community and its police department. To that end, he felt that relying solely on the Massachusetts State Police would not solve our problems. He contended that a community like Ashfield would require a local community policing function and that the State Police were 300 short in personnel state-wide and stretched thin in terms of resources. The concept of shared police services with neighboring towns was potentially a way of the future, but several issues would need to be examined in close detail to ensure a good working relationship, such as proportional sharing of costs and control for agreed upon degrees of coverage, governing oversight of such an arrangement, and clear lines of authority and responsibility. He strongly advocated that, whatever course the town took for the long term, efforts should be made to secure an interim chief as soon as practicable. Otherwise the Town would be exposed to further risk of liability. An interim chief would provide important managerial oversight to help stabilize the police force and ensure that public concerns about confiscated weapons, evidence, record keeping, etc. were being adequately addressed.

Police Liaison – Ted reported that he had picked up the Handycam and associated charging equipment from the Greenfield Police Department so that the Video Detective equipment was now complete. An inventory of the equipment would be taken and filed before the equipment was returned to custody of the Greenfield Police Department.

Emergency Management Director – Doug Field reviewed revisions made to the emergency plan for the Ashfield Lake dam, and presented it to the Select Board for their signatures. Copies will be sent to MEMA and that agency will then return a CD copy to the town.

Town Hall Liaison – Ted said that the Town Hall heating problems have continued, but the Town Hall staff has continued to provide a high level of services despite several days with interrupted heat. Similarly, newly instituted weekly staff meetings are helping to coordinate work among the staff as they work to coordinate coverage during the time Maryellen is recovering from her surgery.

Old Business

Hearing Policy – Discussion of the draft policy was postponed to January 20.

Confiscated Weapons Inventory - The evidence and confiscated weapons safe has been inventoried to develop a complete, current listing of all weapons that have been confiscated, held for evidence or held for safekeeping. Three of the weapons appear to be “found” weapons without a clear designation of owner(s), but past incident reports are being checked

to see if they match any weapons cited in such reports. If any such weapons are thought to still be at issue, it was requested that specific information be provided to the police or members of the Select Board.

Police Department Firearms Inventory - Records have been examined, and all police department issued weapons had been accounted for, save for one handgun bought in 2001. It is still being researched by Jurek Brothers of Greenfield.

Tax Relief – As discussed at the prior week’s Select Board meeting, Ted wrote a letter to the Board of Assessors encouraging them to hold an informational session for taxpayers about forms of relief for which they might qualify. The Assessors confirmed that such relief existed and expressed their willingness to work with individuals to ascertain whether they qualified or not. They also noted that detailed reference material about such relief has been and is available at Town Hall for all to pick up, if and as needed. Any future questions about such tax relief or payments of tax bills should be referred to the Board of Assessors or Tax Collector, respectively.

Mail

Dave agreed to follow up on the Franklin Regional Transportation Plan Update meeting as well as contacting Colrain’s Select Board about their invitation to discuss the status and future of the Senior Center. Tom agreed to follow up on the Franklin County Cooperative Inspection Program’s annual budget meeting, and Ted agreed to follow up on the invitation to meet with the Massachusetts State Police regarding the Shelburne Control Dispatch Center.

New Business

It was agreed to send representatives from the town’s Telecommunications Committee to the Massachusetts Broadband Institute meeting planned for February 3. It was also noted that the Sewer Commission’s contract for replacement of heating elements in the wastewater treatment plant would be signed by the Select Board as well as the Sewer Commission.

Votes/Signatures

It was moved and seconded to ratify the Select Board’s July 2, 2009 unanimous vote “to appoint the following slate of people except for Chief John Svoboda and Bill Perlman as Emergency Manager and Field Driver.” [The slate is titled “2010 Appointments” and is part of Exhibit C to the December 29, 2009 letter from District Attorney’s Office.] These appointments are to be *nunc pro tunc* (effective retroactively to the time of the emergency action). Discussion centered around whether such ratification needed to be undertaken

immediately, given that the District Attorney's office had taken 5 months to issue its findings. On the other hand, it also was recognized that without proper reappointments the Town remained exposed to potential liability, and therefore, immediate reappointment was warranted. The vote in favor was unanimous.

It was moved and seconded to ratify the Select Board's July 2, 2009 vote "to appoint Bill Perlman as Emergency Manager and Field Driver." These appointments are to be *nunc pro tunc* (effective retroactively to the time of the emergency action). In discussion, it was noted that although Mr. Perlman no longer served in either of these capacities, such reappointment would ensure that whatever actions he had taken earlier in these roles would be held as valid. The vote in favor was unanimous.

Executive Session

The Board unanimously voted to enter into executive session for the purpose of discussing strategy with respect to litigation and to consider discipline of a public officer. The meeting would not resume in open session. A roll call vote was held: Tom, yes, Dave, yes, Ted, yes.

Meeting was adjourned at 10:00 p.m.

Respectfully submitted,