

Town of Paxton Board of Selectmen

Regular Meeting Minutes

Tuesday, February 8, 2011

Members Present: Fred Goodrich, Chair
William A. Trotta, Vice Chair
Peter Bogren, Jr., Clerk

Carol L. Riches, Town Administrator

Attendees: see Attendee List

The Chairman called the meeting to order at 7:38pm.

Meeting Minutes

- Motion (FG) seconded (PB) to accept the January 24, 2011 Special Meeting Meeting Minutes. Unanimous all in favor.
- Motion (FG) seconded (PB) to accept the January 25, 2011 Regular Meeting Minutes. Unanimous all in favor.
- Motion (FG) seconded (PB) to accept the January 31, 2011 Regular Meeting Minutes. Unanimous all in favor.

Appointment of James Robert – Tree Warden

- (FG) expressed his objectives for the Tree Warden, and encouraged Mr. Robert work on a plan for trees that need to be removed and replanted with the hopes that in a couple of years that the town would be able to increase this budget.
- Mr. Robert proposed that perhaps an Adopt-a-tree program could be implemented to assist in those areas of town that need trees replaced. Letters could be sent out to see if the residents are interested.
- (FG) requested that Mr. Robert verify what areas need to have trees replaced and to verify that it is actually on town property.
- (WT) Stated that there was a color-coded map in Adam Smith's possession from after the ice storm that could be used as a starting point in helping to lay out a plan for the town.
- Look into getting a new tree for the Town Common.
- Motion (FG) seconded (PB) to appoint James Robert as the new Tree Warden until the Annual Town Election on May 9, 2011. Unanimous all in favor.

Trash abatement

- Trash abatement presented for 618 Pleasant Street for James and Ellen McLean.
- **Motion (FG) seconded (PB) to stop the trash charged on 618 Pleasant Street. Unanimous all in favor.**

Street signs

- Reviewed letter provided by the Town Administrator as to the program that is in place for the replacement of the town street signs.

Town Administrators Update

- Discussed the meeting recently attended for the Wachusett Earthday. A recent collection statement shows that the revenues have exceeded the expenses, and they hope this continue in the future and be able to operate with minimal administrative costs to the member towns.
- DPW is working hard to keep up with the snow removal and the budget is holding up at this point. \$7,075 was billed out to WRSD for plowing the school parking lot. (PB) requested a copy of the contract on what is billed to PCS for our DPW to plow the parking lot. Copy the entire board on this. (PB) feels that this amount is low. (FG) mentioned possible comp time is given to Michael Putnam for all the additional time that he has put in.
- Kathy Stanley started in the Assessors Office on Monday, February 7, 2011 as the new Administrative Assessor.

Health Insurance

- (FG) recommended that the Town Administrator into GIC in terms of what the plan entails and the expense. The potential is there for the plan to be passed in March and will then go into effect in June, so we need to be prepared as to how that may effect us. The town could face penalties if we are not in compliance, so it is important to keep updated on this matter.

Fire Station Parking

- As requested the Town Administrator spoke to the Fire Chief in regards to vehicles being parked in front of the Fire Station Bays. Per the request no one will park in front of the bays from this point going forward.

Letter from Light Department

- (PB) wanted the letter that was received from the Light Department to be read into the minutes.

"Gentlemen:

We reviewed the minutes of the Paxton Board of Selectmen meeting of December 6, 2010 and found them to be not only inaccurate as they relate to the Light Department, but unprofessional and bordering on defamation.

A number of troubling comments appear in the minutes which are attributed to the Chairman and reiterated by the Clerk. These comments stated "the financial handling at the light department has been a disgrace in that they have committed a felony to the Townspeople". The minutes continue with a discussion of the prior manager stating, "she had put in for holiday pay and then amended the timesheet to increase the daily hours to compensate for not being entitled to the holiday pay". Besides being inaccurate, untrue, unwarranted and unprofessional, they impugned the reputation of not only the light department, but also of the prior manager.

The Light Department has had conversations with the Town Treasurer who indicated that the Treasurer, not the prior Manager, made changes to the payroll sheets. While we understand you verified this fact after your comments, we find it troublesome that the Chairman did not attempt to verify the facts, which were readily available, prior to launching accusations in a public meeting shows a total disregard for the truth of the matter being discussed.

We have reviewed that matter with the Light Department's attorney who has advised us that the law as it relates to defamation has a long history rooted in English common laws. Defamation is on two parts; one is libel consisting of the publication of a defamatory matter by written or printed word and slander, which consist of publication of a defamatory matter by spoken word. To prove defamation under Massachusetts law, you must establish certain elements of including that a false and defamatory statement of and concerning an individual was made: the statement was published or shown to a third party: and the party was at fault in making the statement. In reviewing the minutes and knowing all three elements of defamation were met.

The Light Department's attorney has further advised us that public officials are not protected under Massachusetts Tort Claims Act for a claim based on libel or slander. In particular the Massachusetts Tort Claims Act specifically excludes any claim for libel and slander from the protection of the Massachusetts Tort Claims Act. M.G.L.c. 258, Section 10(C). Based thereon a direct action against the individual that made the statement could be made and such public officials would not have the protection of the Tort Claims Act.

The Light Board wants to go on record as disputing the accuracy of the comments and find them unwarranted and highly objectionable and unprofessional. The Light Board requests the individuals retract their statements and apologize to the individual to which the statements relate.

Additionally, we note other comments in the minutes of your meeting that go well beyond the authority of the Board of Selectmen. The Massachusetts legislature has placed exclusive jurisdiction over the operations of the light department in the manager subject to direction and control of the Light Commission. Some of your comments appear to encroach upon that exclusive authority granted by the legislature to the light department. When the courts have been requested to rule on the authority over fiscal matters of a

municipal light department by other town officials the courts have consistently held that the operations of a municipal light department are under the control of the light department and their determinations as to the operations of the light department cannot be changed by other public officials.

In an effort to begin constructive dialogue, we would like to invite the Select Board or its Liaison to meet with the Light Board and discuss some of the items that are of interest. Carol Riches and Greg DeStasi can work to set up a time that is mutually agreeable to meet in February.

Very truly your,

The Light Board

Emerson W. Wheeler

Paul F. Crowley

Michael J. Benoit

(PB) any further communications with the Light Department should be done by William Trotta in light of the fact that he is the one individual on the Select Board that is not mentioned in the above letter.

(PB) formally apologized for the statement that he made.

(FG) stated that it is the Select Board that approves the payroll that is on a proper warrant, and initially he refused to sign the pay warrant until he received an explanation provided by Greg DeStasi.

(WT) inquired as to whether or not they could obtain a written report what would show what work had been done specifically during the time period that they are requesting pay for.

Budget review

- The budget review will be passed over at this time until additional completed budgets are obtained.

Memorandum of Understanding

- A conversation was had with PHP and JK Scanlan. The first item to be done is to create a ground lease. This may take some time, because we may need to wait until the financial standing of Scanlan is complete. Both (PB) and (WT) were provided copies of the agreement, and review it so that it can be signed at the next meeting.

Moore State Park

- (FG) meet with Dennis Melican to obtain more details about the park. Senator Harriett Chandler did file a bill with legislation on behalf of the Park. There is a meeting schedule

for February 17, 2011 at 1:30pm in Boston with Senator Chandler and a representative from the DCR as well as any members of the Board of Selectmen that wish to attend.

Town Buildings

- Look into the cost of having the COA building either re-painted or have siding placed on it.
- In response to a letter from the sheriff's office we could see if the building at 10 West Street would be eligible for this project.

Fire Hydrants

- (WT) posed the question of having the fire hydrants cleaned out by the Fire Department in place of their monthly department meeting. (WT) also stated that a public announcement could be made asking the citizens to clear away snow from the hydrants with the Fire Departments assistance.

Next meeting scheduled for Tuesday, February 15, 2011 at 7:00pm

Adjourned Meeting at 8:54pm, Unanimous all in favor

Respectfully submitted,

Donna Graf-Parsons, Administrative Assistant