

## **MINUTES**

### **TOWN COUNCIL MEETING**

**TUESDAY, SEPTEMBER 12, 2006 AT 6:00 PM**

**RICHARD E. MASTRANGELO CHAMBER**

**ADMINISTRATION BUILDING**

**1. ROLL CALL:** A regular meeting of the Town Council was called to order at 7:15 pm in the Richard E. Mastrangelo Chamber, Administration Building. Present for the meeting were Councilors Stephen Corbett, John A. Donohue, Angeline B. Kounelis, Jonathan Hecht, Mark Sideris and Council President Clyde L. Younger.

#### **2. EXECUTIVE SESSION – 6:00 pm**

The Chair asked for a motion to go into executive session for the purpose of conducting a strategy session with respect to non-union personnel. Councilor Sideris made the motion, seconded by Councilor Donohue and adopted by roll call vote. Councilors Lawn, Devaney and Romanelli were absent. The Chair stated that the Council will return to open session at 7:15 pm.

The Chair stated that when the Council returns to open session, he will be requesting that Attorney Reich, provide recommendations and a process to investigate executive session leaks allegedly made by Councilors.

**3. RETURN TO OPEN SESSION – 7:15 PM** Councilors Lawn, Devaney and Romanelli were present.

A Moment of Silence was called in Memory of Patricia Bernier's sister, Theresa Clark, George Pizzuto's mother, Georgianna Conrad Pizzuto, Carol Fox's father, Asher Joseph Fox, and Captain Raymond Duprus' father, Phillip Duprus.

Councilor Devaney stated that the Town Manager's salary demands a public process, with no discussion or vote until the matter is before the public. She indicated that on August 8<sup>th</sup> an executive session was held and a vote on the Manager's raise was conducted behind closed doors which included a retroactive raise to Fiscal Year 2005. She noted that her objections were ignored and that she stated at that time that the Council could not go back two fiscal years to give a raise. She stated that she used her Charter Privilege earlier tonight in executive session to Table the vote on the Manager's raise.

The Chair stated that the Council's strategy sessions in executive session are within Mass General Laws and the town's Charter. He further stated that he would like to have the minutes of the executive sessions held on the Manager's contract released as soon as possible.

The Chair noted that leaks regarding executive session discussions are taking place and that he is requesting Attorney Reich to investigate where the leaks are coming from. The Chair further stated that it is inappropriate for any councilor to express what happens in executive session. The Chair announced that an executive session has been posted for Thursday, September 14<sup>th</sup> at 7pm to wrap up discussions on the Manager's contract.

Councilor Romanelli stated that nothing illegal has taken place in executive session and that the Council President is the most honest person in this room.

#### **4. PLEDGE OF ALLEGIANCE**

**5. EXAMINATION OF MINUTES: August 8th.** Councilor Sideris moved to approve the minutes, seconded by Councilor Corbett and adopted by voice vote.

#### **6. PUBLIC FORUM**

The Chair recognized:

1. Thomas Thibeaut requested more than the allowed two minutes. Councilor Devaney moved to suspend the two minute rule, seconded by Councilor Sideris and adopted by voice vote.

Mr. Thibeaut read a statement (attached to minutes) with respect to the confirmation of the 5<sup>th</sup> member of the Retirement Board. Mr. Thibeaut stated that the Town Manager did not disclose all candidates seeking the position of the 5<sup>th</sup> member. He further stated that Mr. MacDonald's reappointment was stymied by Board Members James Bean and Thomas Tracy. He expressed his opinion that these members had undisclosed agendas. He lastly stated that if the Manager felt that the Retirement Board needed a member with experience in international investments then he should have replaced his appointment on the Board and not Wayne MacDonald who has twenty years of experience. Mr. Thibeaut called for a special subcommittee to peruse the resumes of all candidates that applied for this position.

2. Duke Aroni, Elected Member of the Retirement Board and Member of the Insurance Advisory Committee – asked why Wayne MacDonald is not being reappointed. Mr. Aroni stated that Retirees want to know and have not been given an answer.
3. Joe Costa, Falmouth Road – stated that Wayne MacDonald has twenty years of experience on the Retirement Board. Mr. Costa noted that the same consideration the Council has given to the Manager regarding the renewal of his contract, should have been extended to Mr. MacDonald for his experience on the Board.
4. Tony Ferolito, Credit Union President – stated that Wayne MacDonald has been on the Retirement Board for twenty years, why is he not being reappointed now. He stated, what is the reason, present the argument. He indicated that the appointed board member needs to care about the retirees. Mr. Ferlito stated that this looks like a political football and it is embarrassing.

There being no further comments, the public forum was closed.

## **7. PUBLIC HEARING AND VOTE:**

A. Public hearing and vote on a proposed Demolition Delay Ordinance. Mr. Gregory Watson, Planning Director spoke in support of the Council permanently creating a 12 month

demolition Delay for historic properties. He noted that prior ordinances had a sunset clause provision and suggested making it permanent. Mr. Watson reviewed data entitled "Historical Demolition Filing Log 2006" (attached) which highlighted proposed demolition of historical property and their subsequent disposition that suggested the ordinance was making an impact and is an important tool.

The Chair opened up the hearing to the public and recognized:

1. Mary Keenan, Beacon Park – spoke in favor of making the ordinance permanent. She noted that the ordinance has been effective and is working for everyone's benefit.

2. David Russo, Historical Commission Chair – spoke in support of making the ordinance permanent and stated that the measure is not used as a zoning tool but used very judiciously in the delay of demolition of historical homes and has been very successful. A number of important homes have been saved.

There being no further comments, the hearing was closed.

Councilor Romanelli moved the ordinance, seconded by Councilor Sideris and adopted by unanimous roll call vote.

## **8. COMMITTEE REPORTS:**

A. Committee on Economic Development and Planning report on parking in Watertown Square and action on an appointment to the Zoning Board – Stephen Corbett, Chair. Councilor Corbett read the Committee report (attached) regarding parking in Watertown Square and an appointment to the Zoning Board. Mr. Harry Vlachos was interviewed and unanimously recommended by the Committee 2-0. Councilor Corbett noted that he recused himself from discussion and vote due to a possible conflict of interest. A proposal was reviewed with various scenarios for parking in Watertown Square, public and private partnerships were also discussed due to the cost of the project. Increasing pedestrian life in the square was also discussed. Input from businesses in the square will be requested through a letter. Councilor Devaney moved to accept the report, seconded by Councilor Sideris and adopted by voice vote.

Councilor Donohue moved to accept the appointment of Mr. Harry Vlachos to the Zoning Board of Appeals, seconded by Devaney and adopted by voice vote.

## **9. PRESENTATIONS AND REPORTS BY TOWN OFFICIALS AND EMPLOYEES:**

A. Informational Presentation on Municipal Benchmarking LLC – Kenneth Strachan, General Manager. Mr. Strachan provided a presentation on how Municipal Benchmarking, LLC can assist the town with a comprehensive analysis of how a community stacks up compared to other communities, visa vie revenues by source, expenditures by area, land use and assessments and municipal financing, including debts and overrides.

Following the presentation, several councilors spoke in support of moving forward with Municipal Benchmarking LLC with Councilor Corbett moving that the Manager come back with a cost for the service, seconded by Councilor Devaney and adopted by voice vote.

It was noted that the service will include 20 copies of the report, two meetings and back up data disks.

Councilor Hecht moved to have the Town Manager provide a preliminary presentation of the Fiscal Year 2008 budget at the n October 10<sup>th</sup> meeting, seconded by Councilor Sideris and adopted by voice vote.

B. Informational Presentation on internal audits, an update on the Fiscal Year 2006 Audit and Munis – Thomas Tracy, Town Auditor. Mr. Tracy provided an overview of the internal audit of the Skating Rink (attached). It was noted by Mr. Tracy that the audit was initiated by a complaint from a vendor of non payment. Mr. Tracy suggested that the Town Council establish an Enterprise Fund for the Skating Rink.

Councilor Corbett stated that it disturbs him that it took an audit to determine that the revenues were off, as it is a revenue department and should have looked at on a monthly basis.

Councilor Romanelli stated that fellow Councilor Mark Sideris has been complaining about cash lying around the office for years with no action taken. He further questioned why the Council was not told of the resignation of the Skating Rink Manager.

Councilor Kounelis thanked the Auditor for the concise report, but noted that she is disappointed with the content of it. She stated that this is the town's first internal audit and this is what we find.

Councilor Devaney stated that it is against the open meeting law to talk of someone's reputation in public, the rink manager, without giving him notice to choose to have the matter discussed in public or in executive session, and said we should request that of the former director. She noted that this is a closed government and she is tired of hearing third hand about what is happening on the street and as elected officials, we should be notified as the council could have been proactive about this matter if we knew. Councilor Devaney stated that there is a lot of questions to be answered with checks lying around and the council has the right to know.

Councilor Devaney made a motion to request the former rink manager to come in public session or executive session with his attorney if he chooses and given at least 48 hour notice as required by law. Councilor Sideris agreed and stated that the Council cannot talk about his reputation publicly.

The Town Manager indicated that the person is no longer a public official and therefore you cannot ask him to come in.

The Chair stated that it is not a question of him being a town officer or not but the need to take the initiative and ask him for an exit interview.

Attorney Reich stated that the rink manager could certainly be invited and that he has the opportunity to come as he sees fit as there is no subpoena powers here.

Upon a roll call vote to ask the former skating rink manager for an exit interview at his will for either a public hearing or executive session, it was adopted by a vote of 5-3-1, with Councilors Corbett, Devaney, Kounelis, Sideris and Younger voting in the affirmative, Councilors Lawn, Donohue and Romanelli voting against and Councilor Hecht voting Present.

Councilor Sideris noted that things at the Rink are improving and that the onus is on the Manager to get out of the corner office and manage his employees.

Councilor Donohue thanked the auditor for the report.

The Chair called a five minute recess.

Upon returning the open session, the Chair announced that the prior vote was worded incorrectly and that the Council must reword the vote. Councilor Devaney moved to invite the former skating rink manager to an executive session, seconded by Councilor Kounelis and adopted by a vote of 6-3 with Councilors Corbett, Devaney, Hecht, Kounelis, Sideris and Younger voting in the affirmative and Councilors Donohue, Lawn and Romanelli voting against.

Department Heads Thomas Tracy, Town Auditor; Gayle Shattuck, Personnel Director; Nooshi Roberts, Purchasing Agent; Allie Altman, Director of School Business Services; Daniel Loughlin, Assessor and Joseph Mahoney, Data Processing Manager each provided a presentation on Munis as part of the town's Integrated Financial System Subcommittee MUNIS Implementation Update. The following topics were discussed at length: project drivers, i.e., departmental survey findings and audit findings; mission statement, project timeline, status of modules, funding revenue and future considerations (attached).

Councilor Romanelli thanked the department heads for the excellent update on Munis, stating that it is apparent a lot of hard work went into the presentation.

The Chair also echoed the comments of Councilor Romanelli regarding the comprehensive report.

Mr. Tracy lastly noted that the Fiscal Year 2006 audit will begin in October.

#### **10. UNFINISHED BUSINESS FROM PRIOR MEETING:**

A. Vote on appointment to the Retirement Board. The Chair recognized Councilor Hecht, Chairman of the Budget and Fiscal Oversight Committee, who provided a summary of a previously submitted report on the confirmation of Mr. Loughran.

Councilor Romanelli moved to place the matter on the Table, seconded by Councilor Hecht.

Councilor Kounelis stated that she had asked for the names of those individuals who submitted resumes for the position of 5<sup>th</sup> member of the Retirement Board and only received number of how many people applied. She noted that she can only vote up or down on the candidate and that it is not an easy vote.

Councilor Devaney read a statement (attached) for the record. She noted the lack of open and proper procedure. She indicated that the Town Manager did not give a reason why Mr. MacDonald was removed and stated that he is a qualified, honest and ethical person. She lastly noted that the Manager appointment by friendship cannot be condoned.

Councilor Romanelli stated that Mr. Loughran will do a fine job, but that Mr. MacDonald was an outstanding board member who had the overwhelming support of retirees. He stated that he believes that Mr. MacDonald was removed from the Board because of his votes on 90A and 90C benefits. Councilor Romanelli indicated that his votes on 90A and 90C benefits are his proudest votes on the Council.

Councilor Corbett stated that his role on the Council is to play with the cards in front of him and that he can only vote the candidate up or down. He noted that Mr. Loughran is a capable and qualified candidate.

The Chair echoed the comments of Councilors Devaney and Romanelli in that the removal of Mr. MacDonald has centered on 90A and 90C votes. He noted that Mr. MacDonald followed PERAC and was proactive and reflected the interest of the retirees. He noted that he will be voting no on the appointment of Mr. Loughran.

Councilor Sideris stated that he was disappointed with the process and with the fact that the Retirement Board could not get beyond their tie vote of 2-2 on the reappointment of Wayne MacDonald. Councilor Sideris stated that he would have been in support of the reappointment of Wayne MacDonald, but that voting no on Loughran will only create more problems on the Board.

Upon a roll call vote of 6-3, the appointment of Mr. Loughran was adopted with Councilors Corbett, Donohue, Hecht, Kounelis, Lawn, Sideris voting in favor and Councilors Devaney, Romanelli and Younger voting against.

## **11. MOTIONS, ORDERS AND RESOLUTIONS:**

Mount Auburn Cemetery 175<sup>th</sup> Anniversary. The Chair read the proclamation. Councilor Romanelli moved to accept the proclamation, seconded by Councilor Donohue and adopted by voice vote.

B. Resolution approving the acceptance and expenditure of a gift of funds in the amount of \$8,000 to offset expenses related to the "Faire on the Square 2006." The Manager provided a brief overview of the transfer. Councilor Romanelli moved the resolution, seconded by Councilor Sideris and adopted by unanimous roll call vote.

C. Resolution authorizing a transfer in the amount of \$16,200 for improvements to the Landing in Watertown Square. Mr. Gregory Watson, Planning Director provided a brief overview of the transfer. Councilor Romanelli moved the resolution, seconded by Councilor Sideris and adopted by unanimous roll call vote.

## **12. PRESIDENT'S REPORT**

The Chair provided a brief report on the 9/11 commemoration. The Chair asked for a motion to send a letter of thanks to all involved in the event. Councilor Sideris moved the matter, seconded by Councilor Donohue and adopted by voice vote.

The Chair asked for a motion to have Attorney Reich come up with recommendations and process to investigate leaks of executive sessions. Councilor Devaney asked for a friendly amendment to include serial calling and serial emailing.

Councilor Sideris moved the matter.

Councilor Hecht stated that we should be setting higher expectations on ourselves and that the Councilors who leaked the information to the press should come forward and take their lumps in public.

Councilor Kounelis stated that she is not condoning the leaks but that certain councilors are lobbying votes by serial calling which makes her votes worthless. It is not always a matter of illegal, but unethical.

Councilor Devaney noted that you cannot legislate personal integrity.

Councilor Hecht stated that he is tired of hearing about vague allegations and that the Councilor has no proof or else she should name the person.

Councilor Devaney responded by saying that serial calling was done on the last vote for Retirement Board Member.

Councilor Kounelis stated that her votes and comments should be respected and that all Councilors should be treated with respect. She noted that she has been treated with disrespect and demeaned.

Councilor Hecht apologized for raising his voice.

### **13. COMMUNICATIONS FROM THE TOWN MANAGER**

A. Request for Confirmation on appointment to the Board of Election Commissioners. Unanimously referred to State, Federal and Regional Government subcommittee.

### **14. REQUEST FOR INFORMATION**

Councilor Sideris asked the Manager to look into new markings on the bridge, inquiring if they are for digging.

Councilor Sideris requested the Manager to look into excessive overgrowth of weeds at the Hartz Mason Building and corner of Howard and Pleasant Street.

Councilor Kounelis requested the Manager to look into overgrown green strips in the Coolidge Square area, and the main streets noting that if the property owners are not maintaining these strips, the town should.

Councilor Kounelis noted that there is no consistency to asphalt/concrete berms and that it makes for an unattractive sidewalk.

Councilor Kounelis asked for an update on her prior requests for improvements to Filipello Park.

Councilor Devaney stated that sponsorship of resolutions were referred to the Committee of Rules and Ordinances and no action has taken place. She moved to go back to the prior practice of allowing councilors to place their names on resolution they have sponsored, seconded by Councilor Kounelis. Upon a roll call vote, the motion was defeated 3-6, with Councilors Devaney, Kounelis and the Chair voting in the affirmative, and Councilors Corbett, Donohue, Hecht, Lawn, Romanelli, and Sideris voting against.

## **15. ANNOUNCEMENTS**

Councilor Kounelis announced that the Tufts building on Mount Auburn Street was awarded an energy star and stated that the town is fortunate for the facility.

Councilor Devaney announced her attendance at a memorial on the esplanade and noted the heart warming event regarding the 343 firefighters that lost their lives on 9/11.

## **16. PUBLIC FORUM**

1. Thomas Thibeaut, Chairman of the Retirement Board – stated that he will welcome Mr. John Loughran aboard in order to give the retirees the best retirement board system possible.

Councilor Sideris moved to go into executive session at 11:55 pm, in order to discuss strategy with respect to litigation and noted that the Town Council will not be returning to open session following the adjournment of the executive session, seconded by Councilor Corbett and adopted by unanimous roll call vote.