

MINUTES

TOWN COUNCIL MEETING

TUESDAY, JANUARY 27, 2009 AT 7:15 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 P. Corbett, Marilyn M. Petitto Devaney, Susan G. Falkoff, Jonathan Hecht, Angeline B. Kounelis, John J. Lawn, Jr., Vincent J. Piccirilli, Jr., Vice President Mark S. Sideris and Council President Clyde L. Younger. Also present were the Town Manager Michael J. Driscoll, Town Attorney Mark Reich and Council Clerk Valerie Papas.

2. **PLEDGE OF ALLEGIANCE**

3. **ACCEPTANCE OF MINUTES: January 13, 2009.** Councilor Sideris moved to accept the minutes as amended, seconded by Councilor Lawn and adopted by voice vote.

4. **PUBLIC FORUM: None noted.**

Councilor Sideris moved to Suspend the Rules in order to bring forward presentations (under 7A, B and a late agenda item presentation), seconded by Councilor Piccirilli and adopted by voice vote.

- A. **Informational Update on the construction of a new police facility** – John J. Lawn, Jr., Chair Police Station Building Committee: The Chair recognized Councilor Lawn who introduced Michael J. McKeon, AIA, LEED AP Keastle Boos Associates, Inc. who provided a power point presentation. Cost updates were noted with a successful bid by PJ Stella of \$12,290,000 and a completion date of spring 2010. Green/Sustainable Design Features were discussed which included reduced light pollution; reduced water use; geothermal heating and cooling as well as other measures. Progress of the construction site was discussed with visuals and dates. The Chair made an inquiry regarding storm water pumped by the French drains. Mr. KcKeon described the French drain process, which he noted was invented by a New Hampshire farmer, and indicated that the silt free storm water drains into a structure by gravity.

Councilor Lawn recognized Police Building Committee members Mark Sideris and Steve Corbett as well as Cathy McGill and neighborhood liaison Cathy Allenbaucher. Councilor Lawn provided a special thank you to Phyllis Marshall and Kenneth Thompson for all their hard work on this project.

- B. Informational Presentation on the Watertown Riverfront Park Restoration Project** – Herbert Nolan, Associate Director of the Lawrence and Lillian Solomon Fund: The Chair recognized Mr. Nolan who provided a power point presentation of the Tri City River Trail. It was noted that the mile long multi path project will increase access to the shore of the Charles River near Watertown Square. The project will incorporate a multi-sensory path and accessible playground to serve individuals with limited sight and mobility. It will also improve bicycle and pedestrian safety. Lastly, it was noted that the design phase was completed by Sasaki Associates and funded by a public and private partnership between the Department of Conservation and Recreation; the Town of Watertown; the Perkins School for the Blind and the Lawrence and Lillian Solomon Fund.

The Chair opened up the presentation for comments.

Councilor Devaney announced that Commission on Disabilities member George Donohue was in the audience. She noted that the Commission sent a letter of support for the Riverfront Project. She stated that the plan would provide recreational space for people with disabilities, especially children that are visually impaired or in wheelchairs that are unable to access our park areas.

The Town Manager noted that the Commission on Disabilities is in support of the project.

Councilor Corbett thanked Mr. Herbert for his leadership role on this project and asked that a letter of appreciation be extended by the Council to the Solomon Foundation.

Beth Zwick, Watertown Community Foundation – stated that she will be working with all the groups involved and presented 22 letters of support from various groups and residents, including the Hosmer School's Roots and Shoots Club.

Councilor Hecht thanked Ms. Swing for organizing the letter writing campaign in support of the project.

Robert Child, Historical Society – announced that on June 6th from 1-4 there will be a rededication.

Councilor Falkoff moved to write a second letter to DCR commissioner in support of the project, seconded by Councilor Hecht and adopted by voice vote.

Councilor Sideris moved to Suspend the Rules in order to take up a late agenda item, seconded by Councilor Piccirilli and adopted by voice vote.

- C. **Informational Presentation on a Community Development & Planning Department Block Grant (CDBG) application to establish an Elder Housing Initiative:** The Chair recognized the Manager who introduced Senior Planner Danielle Fillis and Watertown Community Housing Director Jennifer Van Campen. It was noted that the initiative will assist low and moderate income Watertown seniors to address their housing needs in the form of educational services and housing modification and rehabilitation programs. Ms. Fillis noted that the Town received similar funding from 2003-2007 for the Home Improvement Loan Program but was not renewed for funding by the State in 2007. Ms. Van Campen indicated that the grant is very competitive and is specific to a geographical location. Due to the building of a new police station and improvements to the Pleasant Street corridor, the grant application has targeted the west end with a deadline submission date of February 13th.

Councilor Kounelis stated that it is her hope that future grants will target the east end of Watertown noting the needs of east end senior homeowners of two and three family homes.

Councilor Devaney stated that seniors are very private people and therefore their personal information must be held confidential.

Sue Temper of Springwell stated that her foundation will play a role as case management.

The Chair thanked the Planning Department's Senior Planners and Ms. Van Campen for the presentation.

5. PUBLIC HEARING AND VOTE:

- a. **Public hearing and vote on a proposed Ordinance amending the Fiscal Year 2009 compensation of the Town Manager.**

The Chair recognized Councilor Corbett, Personnel and Town Organization Committee Chair, to read the proposed Ordinance. Following the reading of the ordinance, the Chair opened up the hearing to the public.

1. Elenore DelRose – spoke in opposition to the Ordinance noting that President Obama has taken steps to freeze all cabinet salaries over \$100,000. She noted that this is a crucial time and difficult economic times.
2. Fred Munger – Bromfield Street – spoke in opposition to the Ordinance noting layoffs, and fixed income of retirees. He indicated that his opposition is not personal but reflects the troubled economic times.
3. James Bean, Pine Street – spoke in support of the Ordinance stating that the subcommittee on Personnel and Town Organization put a lot of time into matter and have come up with a fair compensation package for the Manager. He indicated that the Council rejected a raise for itself some time ago, and they should not have.
4. Peg Cassidy, Prentiss Street – spoke in opposition to the Ordinance noting that it is not personal, as she thinks highly of the Manager. She noted the limited validity for the raise and stated that poll workers receive \$100.00 for a twelve hour day.

5. Pat Gold, Duff Street – spoke in support of the Ordinance echoing the comments of former speaker, Jim Bean.

6. Burt Greenberg, Duff Street – spoke in support of the Ordinance pointing out that the Town purchased talent and Watertown is in better shape than most towns; it will cost the Town more if the Council hired someone else with less talent.

7. Elizabeth Harrington – spoke against the Ordinance due to the economy, layoffs and high taxes, noting that she is a part time worker with bills.

There being no further comments, the Chair closed the hearing.

Councilor Corbett provided background information in support of the recommended compensation. He agreed that the raise is bad timing, but that the Personnel Committee spent many meetings on the matter and came up with a justified proposal. He indicated that all employees received percentage raises while the Manager received less during the same time period. Councilor Corbett indicated that the Manager is the longest tenure out of a group which includes the Chief of Police and School Superintendent yet receives the least compensation. Councilor Corbett pointed out that the Town has managed to retain the town's high bond rating in bad times; that the Manager has completed all labor agreements; the Town has cut costs in joining the State's Group Insurance Commission; and Watertown has not had an operational over rides as other town's have had; justifying equal compensation for the Manager.

Councilor Lawn concurred and added that he understands his constituents' concerns over the economy, and noted that the Personnel Committee spent long hours and did their homework with respect to the Manager's compensation package. He stated

that the Personnel Committee cannot single out one person to take the brunt of a bad economy; he pointed to the fact that 7 of 9 Councilors rated the Manager as meeting or exceeding expectations; the Manager has no assistant as other town managers do; and ultimately it is about fairness.

Councilor Devaney spoke against the Ordinance stating that as a member of the Personnel Committee she voted against the Committee's recommendation for an increase. She read a statement for the record citing salaries and compensation of Mayors including the Mayor of Waltham who earns \$105,000 with no vehicle and no assistant, except that of the city auditor. She indicated that the Manager's current salary, prior to the proposed raise tonight is \$138,000 with a car for his personal use (see attached statement).

Councilor Hecht stated that the value of the Manager in dollars and cents, offsets the compensation; He noted that the Manager worked tirelessly in reaching an agreement to join the GIC, which was an extremely complicated process. Councilor Hecht indicated that employees' raises were based on joining the GIC and not to provide a raise to the Manager who was responsible for the hard work would be unfair and ultimately damaging to the Town. He indicated that there are real fiscal challenges ahead for the Manager that must be met by him; the Town will tighten its belt and freeze salaries next year.

Councilor Kounelis spoke against the Ordinance stating that everyone knows what her vote will be. She stated that in past years the Town had growth, as real estate values rose, but times are not good now. She stated that she voted against a salary increase for Town Council raises which was a hard thing to do. She further stated that union raises are based on negotiations which has nothing to do with the Council. Governor Patrick receives a salary of \$140,535, less than that of the proposed salary for the Manager and Lt. Governor Timothy Murray declined his recent raise offer. She noted that speaks volumes.

Councilor Piccirilli stated that this is not good timing, but he is in support of the Manager's compensation, as it is a financially prudent step. He noted that the number one priority last year was to join the State's health insurance program, which saved

the town \$1.6 million dollars this year. On that alone, he earned the raise, a good return on our investment. He indicated that the Manager needs to be focused on the financial challenges ahead of us and that it is important to reward him for a job well done.

Councilor Sideris spoke in support of the raise, noting the importance of joining the GIC. He stated that when dealing with the last employee to receive compensation, the Council cannot single out one employee, the Manager, and deny him a raise while all others received one. He noted that the Manager was here in the bad times of the 1990's and is still here. There are tough decisions ahead of us to be made by the Manager and he should be rewarded, he stated.

Councilor Falkoff spoke in support of the Ordinance and thanked those who spoke out against it. She noted that she appreciates hearing the comments. She noted that the Personnel Committee did a good job in laying out the case for the Manager's raise and that this is the last raise, in a long line. Now it is now over, she stated and no one will be getting a raise next year, including the Council, in her opinion.

The Chair stated that he believes in fairness. He noted that he attended a non profit board of directors' meeting last night where a board member's salary increase was not voted, even with an exemplary performance evaluation. He further stated that with the Group Insurance Commission, cited by several councilors in support of the Manager's raise, was initially vetoed by the Manager.

All the hard work done, in order to bring the unions back together on the GIC issue, could have been accomplished sooner, he noted. Given the economic climate, he indicated that he cannot support the recommendation of the subcommittee, noting that comps aren't a precise science.

Councilor Sideris moved the compensation, seconded by Councilor Piccirilli and adopted by a roll call vote of 6 for and 3 against with Councilors Kounelis, Devaney and the Chair voting no.

6. COMMITTEE REPORTS:

- a. Committee on Public Works report and action on appointments/reappointments to the Environment & Energy Efficiency Committee – Susan G. Falkoff, Chair. The Chair recognized Councilor Falkoff who summarized the Committee report and moved the appointments of the candidates. She noted that all candidates, during their interview provided clear objectives. The addition of the Town’s Purchasing Director and the School’s Business Administrator is a good fit and a proactive move.

Councilor Sideris read and moved all 8 appointments, seconded by Councilor Piccirilli and adopted by voice vote.

- b. Committee on Budget and Fiscal Oversight report and action on the appointment of an audit firm – Mark S. Sideris, Chair. The Chair recognized Councilor Sideris who read the Committee report. He noted that there was debate on hiring a new firm in order to get a fresher perspective. The firm of Sullivan and Rogers revised their quote to \$66,800; while the current firm of Melanson & Heathe, who provided a quote of \$57,000 added the commitment to rotate audit managers to achieve the Committee’s desire for a fresher perspective.

Councilor Sideris also provided a brief summary on ongoing Capital Improvement Program discussions. Councilor Sideris moved to accept the report, seconded by Councilor Lawn and adopted by voice vote.

Councilor Sideris moved to the Committee’s recommendation to re-appoint Melanson & Heath as the audit firm, seconded by Councilor Lawn and adopted by voice vote.

- c. Committees on Rules and Ordinances and Public Safety report and action on a proposed Ordinance prohibiting the use of Marijuana – Angeline B. Kounelis and Mark S. Sideris, Chairs. The Chair recognized Councilor Kounelis who yielded to joint committee members on the late submitted Committee report. She noted that the report was several pages and she has not had a chance to go through the document. Councilor Sideris suggested accepting a verbal report and having the committee go over the written report at a later date.

Councilor Sideris noted that discussions on the proposed Ordinance to prohibit the use of Marijuana is ongoing and moved to accept a verbal committee report, seconded by Councilor Lawn. Councilor Kounelis asked if this was acceptable to Councilor Devaney. Councilor Devaney indicated that she spent many hours on drafting the minutes, but agreed to accept the verbal report tonight. Adopted by voice vote.

9. REPORTS FROM THE COUNCIL PRESIDENT:

The Chair asked for a motion to change the date of the Whole and Finance meeting from Tuesday to Wednesday, February 4th. Councilor Falkoff agreed and asked that the meeting time be changed to 7:30 pm. Agreed and adopted by voice vote.

10. COMMUNICATIONS FROM THE TOWN MANAGER:

- a. The Manager forwarded candidates to Conservation Commission – referred to Public Works by voice vote.

b. The Manager forwarded candidates to Licensing Board – referred to Personnel and Town Organization by voice vote.

The Manager announced that the Zoning Board of Appeals meeting for tomorrow night has been cancelled due to the upcoming storm.

The Manager stated that he has met with the DCR Commissioner. Improvements to the landing dock will commence on March 23rd and be completed on June 9th.

The Manager indicated that regarding the purchase of electricity; the town reached a new agreement with a contract to expire December of 2014 with lower rates.

The Manager indicated that a special enrollment for BCBS will not be necessary as Tufts and BCBS have reached an agreement.

The Manager indicated that he will be providing a broad overview of reductions in state aid and offset reductions at the Whole and Finance meeting scheduled for February 4th.

11. REQUEST FOR INFORMATION

With respect to a recent Boston Globe article regarding published information from cities and towns regarding the cost for plowing per resident for 2008; no Watertown information was available. She asked the Manager to follow up on the omitted figures.

Councilor Devaney stated that she has not received yet a request for trash/recycling contracts; noting that a savings could be made by combining efforts with Belmont.

The Manager stated that the contract with Allied was forwarded to Councilor Devaney in Miscellaneous Items on December 19th.

Councilor Sideris moved to refer to joint committee of Budget & Fiscal Oversight and Public Works the issue of snow management practices and funding issues, seconded by Councilor Kounelis and adopted by voice vote.

Councilor Hecht suggested that the Committee on Rules and Ordinance look into Committee Assignments. He noted that in May, the Council voted to keep assignments unchanged to the end of their terms. He noted that the Council President has removed Councilor Devaney from a committee, which would not be in keeping with the May vote of the Council.

The Chair stated that on January 8th he announced that Committee Assignments for 2008 will be for one year only (see attached excerpt of January 8, 2008 minutes). He noted that he requested a ruling from the Attorney.

Attorney Reich read the written opinion. In summary, the opinion states that as the Council President has the authority to appoint committee assignments and the issue of removal is silent in the Council Rules or in the Charter, the Council President has the power to also remove councilors from committees (see attached written opinion).

The Chair noted that if the Council is going to take up the issue of the authority of the Council President to appoint or remove, than in order to avoid discrimination, the Council should also address the manager's authority to appoint or remove.

Councilor Piccirilli stated that the vote in May was a legitimate vote of the Council and that perhaps it is a matter of interpreting that vote; was there an intent to freeze membership rather than to tie the hands of the Council President.

Councilor Sideris stated that while the issue is silent, as stated by Attorney Reich, perhaps that fact warrants discussion in committee.

Councilor Devaney stated that there was no just cause to throw her off a committee. She noted that taking her off a committee after serving for one month, is discrimination.

The Chair stated that he resents the comments about discrimination and asked for Attorney Reich to address the accusation.

Attorney Reich stated that Councilor Devaney does not fall into a protected class to make such a claim of discrimination.

Councilor Hecht stated that he would be amiss if he did not bring up an important principle. The Council voted to establish a rule that the Committee Assignments remain unchanged until the end of the term, in order to avoid disrupting the important work of the committees. He indicated that a collective vote of the Council made on May 13, 2008 should be abided by as such votes share equal power to the President's authority.

Councilor Corbett stated that if the Council is not in compliance with the Rules, then the matter should go to committee.

Attorney Reich clarified the matter by stating that the issue is not about being within or outside the rules.

Councilor Piccirilli stated that we have difficult choices ahead of us with respect to the budget crisis that will take team work, a respect of opinions. He suggested that the Council revoke their intentions on the matter in order to bring clarity to the issue.

Councilor Piccirilli moved to reconfirm the vote of May 13, 2008 which stated that the committees as formed, remain unchanged until the end of their term; December 13, 2009.

Councilor Kounelis stated that she cannot vote on a motion when she is not clear in her mind what the matter was. She noted that the minutes are not verbatim and she would need a refresher of the meeting by listening to the tape.

Councilor Corbett stated that the matter addressing 4 people to a committee was the relevant issue on the vote, and not the term.

Councilor Hecht read an excerpt of the minutes of May 13, 2008 and noted that first; it is a bad idea to permit reshuffling of committee members as it is disruptive; second it sets a bad precedence to remove someone from a committee without their agreement, all councilors serve equally and are not subservient to the Council President.

The Chair stated that he resents the statement. Councilor Hecht indicated that his remarks were regarding the structure of the authority of the Council President and not about the person.

It was indicated that a Yes vote was a vote to keep the committees without recent changes. Upon a roll call vote, the motion was defeated by 3-5 with Councilor Devaney not voting; and Councilors Hecht, Sideris and Piccirilli voting yes; Councilors Corbett, Falkoff, Kounelis, Lawn and President Younger voting No.

The Committee Assignment appointments made by the Council President for calendar year 2009 stand as appointed (see attached membership).

12. ANNOUNCEMENTS – none noted.

13. PUBLIC FORUM – none noted.

Joyce Barren, west end Watertown resident – spoke against the compensation for the Manager noting her frustration with pay raises, impacting pensions during tough economic times.

14. ADJOURNMENT

There being no further business to come before the Town Council, Councilor Sideris moved to adjourn the meeting at 11:00 pm, seconded by Councilor Piccirilli and adopted by unanimous vote.

I hereby certify that the above minutes were adopted as amended on February 10, 2009 by voice vote.