

TOWN OF KINGSTON  
BOARD OF SELECTMEN

MINUTES  
September 5, 2006

Chairman Joseph D. Kelleher opened the meeting of the Board of Selectmen held on September 5, 2006 at 7:30 p.m. in Room 200 at the Town House, 26 Evergreen Street, Kingston. Present were Vice Chairman Mark S. Beaton, Sandra D. MacFarlane, Jean M. Landis-Naumann and Town Administrator Kevin R. Donovan. Mr. Gallagher was absent.

The Chairman announced the dates to note and the Open Forum.

John LaBrache, Vice Chairman of the Community Preservation Committee came forward during Open Forum to announce that on Wednesday, September 27, 2006, the Committee would be holding an informational meeting on the process for applying for funds, that applications would be available on October 1<sup>st</sup> and must be returned by November 30<sup>th</sup> for review and recommendation at the Annual Town Meeting. Mr. LaBrache also reported that as of June 30, 2006, \$403,543 was in the fund and that it was expected that the State would provide 100% matching funds this year.

Mrs. Landis-Naumann asked if the Board did not have a fall Special Town Meeting, could the Community Preservation Committee wait until the Annual Town Meeting to establish funds for administrative expenses. Mr. LaBrache stated that they could wait for the ATM.

Helen Gavin of Rabboth Road came forward to request that the Board update the 40R information that was on the website. She also asked for the Board to discuss the information that was put forward by the developer stating the project was a public/private partnership and who was actually initiating the 40R ByLaw?

Mr. Kelleher requested that any updated information be placed on the Town's website. Mr. Beaton stated that information was still being gathered. He further suggested that the Design Review Committee meeting be televised and announced that PAC/TV was looking for volunteers to do the taping. Mrs. Landis-Naumann suggested having the Committee provide a summary to the Board of its meetings.

Upon motion made and seconded, following a discussion and a 4 to 0 to 0 vote, it was –

VOTED: To arrange to have the Design Review Committee meetings televised.

Attorney Mark Reich of the firm of Kopelman & Paige, P.C. was present to discuss with the Board the renewal of the appointment of the firm as Town Counsel. Attorney Reich gave an overview of the firm's qualifications and his role as lead Counsel for the Town.

Mr. Beaton stated that there had been a few issues with the firms representation, specifically the ABCC hearing on the license for Royal Garden and the ZBA membership matter. Attorney Reich stated that the firm would work hard for the Town and would address the areas that

could use improvement. Ms. MacFarlane stated that some of the issues are not just financial but are for the principle and on those issues would like the firm to be more aggressive.

Attorney Reich stated that his role was to advise the Board of the cost of the potential litigation but that the Board decides where to stand, but that he did understand and respect that matters are based on principle.

Upon motion made and seconded, following a discussion and a 4 to 0 to 0 vote, it was –

VOTED: To re-appoint the firm of Kopelman & Paige, P.C. as Town Counsel.

The Board reviewed the Town Administrator's report. Mr. Donovan outlined an issue with Revoli Construction and Camp Dresser & McKee (CDM) and the dissatisfaction with the oversight of the project. He further stated that a Police Officer had been electrocuted while on a detail due to the negligence of the Contractor in keeping the worksite safe. Mr. Donovan stated that Town Counsel was reviewing and would be advising the Town of how to proceed with sanctions on the matter.

Other items discussed under the Town Administrator's report were; FY 2008 Budget Process, Division of Local Services Seminar on Sept. 29, 2006 that Mr. Donovan was scheduled to attend, status of the \$200,000 grant funding for the Senior Center and the presentation of the Financial Guidelines developed by Treasurer John LaBrache.

Mr. Donovan advised that the State mandates that the Town award a contract to a low bidder unless the Town itself had a previous unsatisfactory experience with the Contractor. He further advised that the Town was unable to use the past experience of Revoli Construction with other contracts.

Mr. Beaton's motion, seconded by Ms. MacFarlane, was unanimously supported to send a letter to Representative O'Brien and Senator Murray, requesting that they file legislation to amend the provision of MGL c.30, §39M relevant to further defining the word "responsible" as it relates to the evaluation of a bidder.

Upon motion made and seconded, following a discussion and a 4 to 0 to 0 vote, it was –

VOTED: To approve the minutes of the August 22, 2006 public and executive session meetings.

Mr. Beaton requested to list as item number 6 on Old Business the status of the review and recommendations being conducted by Conservation Property Review Committee.

The Board reviewed the Town Administrator's memo stating that based on the listing of articles for the Fall Special Town Meeting, that there was nothing pressing that could not wait until the usual Special Town Meeting prior to the Annual Town Meeting.

Mr. Beaton suggested that the Board not have a Fall Special Town Meeting. Mrs. Landis-Naumann questioned whether or not the Article to take five Rights of Entry along Pembroke

Street for the Route 27 Project could wait until the ATM. Mr. Donovan advised that Paul Basler, Highway Supt. would be going to the five homes to try to obtain the required signatures on the Rights of Entry and if he were unsuccessful, it would be on the STM agenda for the Spring. He further advised that the Federal Highway had not yet weighed in with comments on the project and that may delay the project for one construction season anyway.

Upon motion made and seconded, following a discussion and a 4 to 0 to 0 vote, it was –

VOTED: To not have a Fall Special Town Meeting.

Upon motion made and seconded, following a discussion and a 4 to 0 to 0 vote, it was –

VOTED: To accept the resignation of James McKenna from the Wage and Personnel Board.

Upon motion made and seconded, following a discussion and a 4 to 0 to 0 vote, it was –

VOTED: To appoint; Martha E. Lane as the associate member of the Zoning Board of Appeals, Diane E. Jennings as an Educational Fund Trustee, Peter Cobb and Robert Albertini to the Memorial Day Parade Committee, and Steven Smart and Branda Eagan as Kingston Emergency Management Agency volunteers, and further;

VOTED: To accept a \$20.00 donation from Gertrude Packard for the Fire Department, and further;

VOTED: To approve the closure of Park Street and Landing Road during the Duxbury Beach Triathlon on September 16, 2006.

Upon motion made and seconded, following a discussion and a 4 to 0 to 0 roll-call vote, it was –

VOTED: To enter into executive session<sup>1</sup> for the purpose of discussing Bargaining for Non-union Personnel and Pending Litigation and not return to public session.

Respectfully submitted:

Nancy M. Howlett, Assistant to the  
Town Administrator/Board of Selectmen

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<sup>1</sup> The public session adjourned at 8:15 p.m. and the executive session adjourned at 8:55 p.m.