

**MINUTES**  
**BOARD OF FINANCE REGULAR MEETING**  
**WEDNESDAY MAY 12, 2010**  
**7:00 PM**  
**TOWN ANNEX CONFERENCE ROOM**

Present: Deb Tietz, Chairman  
Deb Fuller, Vice Chairman  
Richard W. Anderson  
Andrew Sherman  
Richard Famiglietti  
William Drakeley

Also Present: Gerald Stomski; First Selectman, Attorney Margaret Hollon, Attorney Paul Jessel,

Tom Arras, Jamie Cura; VOICES and about six townspeople.

**1. Call to Order**

D. Tietz called the regular meeting to order at 7:00 PM in the Town Annex Conference

Room.

**2. Privilege of the Floor**

Tom Arras read from a letter he submitted and is attached to these minutes, dated May 12,

2010. He acknowledged receipt of correspondence from Chairman Tietz and noted that an assessment was to have been received from First Selectman Paul Hinckley. D. Tietz told him the Board received a verbal assessment and the Board would receive a presentation from Town Counsel regarding this matter at tonight's meeting. Mr. Arras left the meeting.

**MOTION:** W. Drakeley moved to change the order of the agenda and discuss the Treasurer's

Report after discussion with Town Counsel. D. Fuller seconded.

**UNANIMOUSLY APPROVED.**

**4. New Business**

• **Discussion with Town Counsel regarding Pezzo Property**

Attorneys Hollon and Jessel came forward.

Attorney Margaret Hollow informed the Board that she represented the Town at the beginning of the Pezzo property situation because she collected back taxes for the Town when an attorney was needed. Attorney Jessel is Town Counsel. A. Sherman asked if there is legal action against the Board of Selectmen or Board of Finance. Attorney Jessel stated no claim has been made. There are two things to consider here; a) what is the appropriate thing to do, and b) if the process was not done properly what is needed to remedy the situation, make it go away. We don't need to get into blame here, there are indemnity provisions. Attorney Hollon then explained the history.

Action was originally taken against Mr. Pezzo to collect back taxes. It is economically feasible to use attorneys instead of marshals in these cases. We have been very successful in getting collections this way. Resolutions have been amendable. Mr. Pezzo purchased a piece of property a long time ago and eventually sold a piece. He started to build a home on the remaining small piece and was told to stop through a cease and desist from the Inland/Wetlands Agency. That was resolved. Mr. Pezzo then chose not to move to Woodbury and build a house because a house could not be built on the remaining property. Because he could no longer build a house on this piece he chose not to pay his taxes. Until this time he had always paid taxes timely. His assessment on the property was never adjusted after the Inland/Wetland dispute, as the lot was now no longer buildable on. Was the lot buildable, even with the excess acreage asked W. Drakeley? Attorney Hollon said that was debatable. The tiny section that could be buildable needed an engineered septic, a slab type house with one bedroom. Collection letters for back taxes were sent. Pezzo called, he no longer wanted the property. He asked that the taxes be forgiven and the Town should pay him \$100,000. The property is near Nonnewaug High School, the First Selectman thought maybe they would be interested in the property. They were not. The lawsuit started, Mr. Pezzo had hired Attorney Kolesnik. Attorney Kolesnik responded to the lawsuit with a counter claim, the town "dumped water" on the property from Minortown Road and Middle Road Turnpike. He claimed the Town took the property, can't do anything with it. It was a legitimate argument. Meetings started with the Judge. There was a delay. Mr. Pezzo asked for a reasonable offer, with money for taxes to be considered. Judge suggested a reference to a specific court case. A current appraisal was needed, soil science, surveyor. After investigation by Attorney Hollon it appeared that the Town could get the property but could not collect on the back taxes. To find a value on the property took months. Originally the property was valued at \$110,000 by the Assessor, appraisal showed it to be worth about \$52,000, fair market value. The back taxes were more than the property was worth. The legal cost to the Town was between \$30,000 and \$40,000. Condemnation was looked into. There was no legitimate public purpose to do this. The resolution for these 3.9 acres was that the Town might benefit from this property and both the Town and Mr. Pezzo needed to be protected. There is a specific easement filed on the land records, a conservation restriction. The decision from the Judge was that the Town would own the property, pay Mr. Pezzo \$15,000 and forgive the back taxes. He should not have been taxed as much as he was in the first place. A meeting between the Tax Collector, Assessor, First Selectman Hinckley and Town Counsel was set up. The parcel would be quit claimed to the Town. The final proposal was sent to Attorney Jessel. The conservation agreement said the Town was protected, Inland/Wetland secured. Mr. Pezzo's action was withdrawn, a check was cut. In December 2008 language was written, the money escrowed. Mr. Pezzo signed and the check went to Attorney Kolesnik. Then there was the Charter glitch.

Attorney Jessel stated in September or October 2008 he became involved. He made the First Selectman and Attorney Hollon aware that in order to consummate, Town Meeting had to accept it. In January the deed was received but Town Meeting had not yet approved. At the May 2009 Town Meeting where this issue was on the agenda neither Attorney Hollon nor Attorney Jessel were present. The motion was defeated. W. Drakeley asked how the escrow check slipped through the cracks. Attorney Hollow stated the check was in her drawer and she was told she had to power to take care of this, no one told her the Town Meeting had to approve the transaction. The funds were dispersed is the point, commented W. Drakeley. Attorney Jessel explained that this needed to get done. The Board of Finance has heard why the situation was settled the

way it was. The settlement makes sense. The property is worth less than the taxes. D. Tietz then asked, if the property went to foreclosure would it have to go to Town Meeting? She was told it did not. A. Sherman commented that if the discussion went to a logical conclusion we cannot accept the way this turned out without a Town Meeting. Attorney Jessel answered that the transaction was an “arms length transaction.” We had a mutual agreement; judicial findings take precedence over the Charter. It was a negotiated settlement. D. Fuller then asked if there was other judicial history between a stipulation and applied negotiation settlement and court order. We erred on the side that the Town Meeting should approve the agreement, Attorney Jessel informed her. A. Sherman asked what the call of the Town Meeting stated, Attorney Jessel read it to him. The townspeople felt the Town should not have paid the \$15,000 observed A. Sherman. Now the property sets in limbo answered Attorney Jessel. We have a few options: a) simple foreclosure, b) pursue foreclosure action, defend the claim by Attorney Kolesnik, which could result in about \$30,000 to \$40,000 in legal fees, c) pay Mr. Pezzo the \$15,000, cut legal expenses, get the property, but with loss of taxes, and d) loose the lawsuit. D. Fuller then asked, at the time of the Town Meeting was any consideration given to the fact that the townspeople might not accept the agreement? Attorney Jessel told her that it wasn’t known that the conveyance wasn’t done at the time of the Town Meeting. We had the deed, and we’re still in the same situation today. What do we do to finish? How do we resolve this? W. Drakeley said, bottom line we didn’t have the financial analysis. Then let’s do the process as it should have been done, concluded Attorney Jessel. Get the recommendation, take it to Town Meeting; Attorney Hollow should explain this at the Town Meeting, she knows the history. And what happens if the Town Meeting doesn’t approve it, asked A. Sherman. There would be a flawed acceptance of conveyance if left alone, he was told. Conveyance of property without acceptance is not a valid deed. There would be other legal ramifications if an accident happened on that property, added G. Stomski. Attorney Jessel assured him that the Town is insured on that property. W. Drakeley thought the fairest way to straighten this out would be to go to referendum. Attorney Jessel said the situation needs to be rectified, the Town Meeting does not have to approve the \$15,000. The Land Use and Assessor were both flawed, said W. Drakeley. The situation, continued Attorney Jessel, is more than how do we fix this, it is procedurally wrong. The financial analysis needs to go before the Board of Selectmen. Have a special Town Meeting with a carefully drafted question and get the townspeople to understand what happened, that the settlement makes sense. D. Fuller commented that it was too bad no one had heard the whole story before this. W. Drakeley felt reality had to be looked at here; this is a worthless piece of property. The Selectmen have a right to send it to referendum. Attorney Jessel said the Board of Selectmen are very rational, the situation could have cost up to \$100,000. The best thing would have been that we get the property; the worse would be high legal expenses and no property.

Attorney Hollon stated she felt hamstrung here, she is a taxpayer in Woodbury too, and we’re about 99% collections in taxes. A. Sherman asked her if she was clear as to whom she was to take orders from. Attorney Hollon told him it was the Board of Finance, the First Selectman and the Tax Collector. G. Stomski told her it was him. A. Sherman told Attorney Hollon that the Board of Finance has asked the Tax Collector for a procedure as to how delinquent taxes were collected. Attorney Hollon then told A. Sherman the history of delinquent taxes in past years; they were like a “savings account.” D. Fuller thought that was news! We’re looking for a fair standard, that all are treated the same. It is the First Selectman who should pursue delinquents. Attorney Jessel pointed out that the Town does not pay these costs, they are borne by the

delinquent. Liens are done efficiently. But we want a procedure in writing, D. Fuller stated. Attorney Hollon noted that there was no State Statute to that, there is a threshold. The Tax Collector does have some flexibility added G. Stomski. Attorney Hollon explained that for six to ten years there is a threshold. At one point there was a \$10,000 threshold, now taxes are so high that that is three payments. You have to consider illness. The Town needs to look at proper easements.

Attorney Hollon and Attorney Jessel were thanked for their presentation and they left.

- **Executive Session (if needed)**

The Executive Session was not necessary.

### **3. Treasurer's Report**

Board of Finance members received copies of the report. M. Gomes was not present to discuss, but D. Fuller stated some concerns about overages. She asks that these overages be explained in June. She wanted assurance that transfers between intra accounts are tracked too. A. Sherman asked if the surplus would still be the same. Questions may be asked at the Town Meeting. W. Drakeley wondered how these problems would be resolved; do the independent department heads know about these intra transfers? Will there be transfers from Contingency? He would like to know the answers by the next meeting. We do need an estimate of the surplus before setting the mill rate, D. Fuller pointed out. We need confidence in the numbers; the Town Meeting has to approve some of these transfers, noted A. Sherman. W. Drakeley is very concerned about overtime in the Police line, it's over \$44,000, Auto Repairs are \$12,500. Does the State Trooper look at his budget? Who gives the authority to expend over appropriations? D. Tietz said they have been approved. A discussion followed as to when the second State Trooper left and when the replacement occurred. G. Stomski thought that occurred in August. W. Drakeley observed that with the new computer system this information is more available to track. The budget balance in Account #114, 100% of 0 is spent? D. Tietz said she would bring this up with M. Gomes. A. Sherman thought the percentages were goofed up in a few places. G. Stomski then explained the procedure for expenses to go over budget; we need a true feel of what each department spends in each line item. A. Sherman thought that this information should come before the Board of Finance. D. Tietz commented that the intention is to keep the line items true to form and at the end of the year transfers will be made. G. Stomski said transfers could be made intra budget. W. Drakeley asked for an adjusted budget figure. Expenditures always went to the proper line item before. To that, G. Stomski stated they did not. But the audit would identify that as a problem if it didn't, observed W. Drakeley. G. Stomski said he would show W. Drakeley a report. A. Sherman said it would be helpful to him if he received a monthly projection, where the department budget will be at the end of the year. W. Drakeley told him that was a detailed surplus or deficit report. A. Sherman asked for credibility versus projection. What the Board would like is a report, year to date of expenses presented before the end of the year so we can see where we are, especially those accounts close to overdrawn.

### **5. New Business**

- **Auditor Selection**

D. Tietz, R. W. Anderson and M. Gomes met to review the five proposals. The

consensus of the group was to go with Mike Zemaitis. He is a one person firm and was the lowest bidder. He does towns like Morris and Goshen. R. W. Anderson stated he was still irritated that the Auditor's Report could not have been completed before the printing of the Annual Report.

**MOTION:** R. W. Anderson moved to accept the auditor bid submitted by Mike Zemaitis.

D. Fuller seconded.

Discussion: It should be added that this is on the condition that he starts working on the

audit before September 1<sup>st</sup> stated R. W. Anderson. D. Tietz said that Mr. Zemaitis

said he would be here for the October meeting.

**UNANIMOUSLY APPROVED.**

The Charter was then reviewed as to procedure, specifically Section 707. Previously a letter of engagement was presented after the Board of Finance made the choice. A. Sherman cited Section 402.D. After further discussion, G. Stomski said he would run this by legal.

- **Suspense List**

D. Tietz said she spoke with the Tax Collector about some motor vehicles. It is duly noted that the amount to be transferred to the Suspense Book is \$27,988.92.

**MOTION:** R. Famiglietti moved a detailed examination has been made of the statement

submitted, dated this 12<sup>th</sup> day of May, 2010 recommending the transfer of certain uncollected taxes to the Suspense Book. These taxes are believed to be uncollectable and pursuant to Section 12-165 of the Connecticut General Statutes authority is hereby granted to you to transfer such taxes, in accord with the law, to the Suspense Book. R. W. Anderson seconded.

**UNANIMOUSLY APPROVED.**

D. Fuller asked about personal property, are liens placed against it?

- **Approval of Minutes**

- **March 11, 2010 Regular Joint Meeting**

**MOTION:** R. W. Anderson moved to approve the minutes of the March 11, 2010 Board of

Selectmen meeting jointly with the Board of Finance. R. Famiglietti seconded.

Discussion: Why was this a joint meeting? Board of Finance can take no action on these

minutes. **MOTION WITHDRAWN.**

- **April 14, 2010 Regular Meeting**

**MOTION:** R. Famiglietti moved to accept the minutes of the regular meeting of April 14, 2010 as presented. R. W. Anderson seconded. **UNANIMOUSLY APPROVED.**

- **April 19, 2010 Public Hearing**

The Board received these minutes and they were reviewed.

- **April 19, 2010 Special Meeting**

**MOTION:** R. W. Anderson moved to accept the minutes of the special meeting of April 19,

2010 with the following corrections:

Page 2, 2<sup>nd</sup> paragraph, 2<sup>nd</sup> sentence, should read “**There appear to be approximately**

**\$440,000 of uncommitted funds in the current year’s budget that could be managed so as to increase the year-end surplus that could be applied to reduce next year’s mill rate.”** not as stated.

Page 3, 3<sup>rd</sup> paragraph, 6<sup>th</sup> sentence “We’ll go back to more confusion” should be deleted.

Page 3, 3<sup>rd</sup> paragraph, 12<sup>th</sup> sentence should read “W. Drakeley...\$211,000 as the salary...”

R. Famiglietti seconded. **UNANIMOUSLY APPROVED.**

- **April 28, 2010 Special Meeting**

**MOTION:** D. Fuller moved to accept the minutes of the special meeting of April 28, 2010 with

the following corrections:

Page 1, under Privilege of the Floor, 2<sup>nd</sup> sentence, should read “D. Tietz answered **that**

**the** Tax Collector...”

Page 4, top, add “with the military” to the word deployed.

Page 5, 1<sup>st</sup> motion, under “OPPOSED” should read “A. Sherman...get done **for safety**

**reasons.”**

R. W. Anderson seconded. R. Famiglietti abstained, as he was not present for the

whole meeting. **VOTE: 5-0 FAVOR. MOTION CARRIED.**

It is duly noted that the date for the referendum was referred to as May 25<sup>th</sup> in the minutes; the actual date is May 27<sup>th</sup>.

- **2010-2011 Budget Matters**

D. Tietz asked the Board about scheduling a special meeting directly following the Town

Meeting to discuss Town Meeting findings. A meeting to set the mill rate was scheduled for June 2, 2010 at 7:30 PM. If budget adjustments need to be made they could be done then.

A. Sherman noted that Governor Rell vetoed MIRMA. Will that affect Woodbury? G.

Stomski said a bill for \$17,000 was sent to Woodbury by the State for this. Woodbury uses KIRMA, MIRMA has not been used for four years. A. Sherman then asked about Sgt. Rafferty and supervisory personnel, will that affect the overtime schedule? G. Stomski told him that had nothing to do with overtime. He explained the request from Sgt. Rafferty. This has not been approved by the Board of Selectmen yet. D. Fuller commented that ever since Sgt. Rafferty joined us we have had problems with overtime. First it's an SUV, now it's a person in a supervisory position. And, he's never attended a Board of Finance meeting. G. Stomski answered, when Sgt. Rafferty is off duty on a Saturday and there is a motor vehicle accident, there is no one in a supervisory capacity to make a call to alert the Sgt. of the event and take charge of the event. This position is also being requested to build self esteem among the eight officers. There is no rank structure. This issue is in the discussion stage with the Board of Selectmen. A. Sherman commented that it seems that with eight unionized officers the Town could give something in contract negotiations. G. Stomski so noted his comment.

W. Drakeley asked if the conveyance tax was included in the budget as a revenue loss. G. Stomski said there was no change in the conveyance tax from the Governor's office as of today. It is still in place.

- **Budget Transfer Requests**

There were none.

- **Bills**

**MOTION:** D. Fuller moved to accept the clerk's bill in the amount of \$244.89 and approve for payment. R. W. Anderson seconded. **UNANIMOUSLY APPROVED.**

- **Correspondence**

The Board of Finance received a letter from the Chairman of the Charter Revision Commission, asking for input. It was decided that D. Tietz would represent the Board. Discussion about possible input to the Commission will be scheduled at the June Board meeting.

The Connecticut Conference on Municipalities had an article about pavement preservation, a new way to pave roads. A copy was given to all Board members and another will be forwarded to Mr. Monckton.

## 6. Unfinished Business

- **Budget Matters**

Regarding Undesignated Surplus, have suggested requirements been raised, can bond counsel, through M. Gomes, give us an update, asked D. Fuller.

- **First Selectman's Update**

There was none. D. Fuller asked G. Stomski if an update on pending legal matters could be presented to the Board, facts and costs? He told her yes, as to the issues, up to date from December, what is new and current. D Tietz also asked for a list of projects,

especially as to Capital. W. Drakeley asked for a recommendation of impact regarding the Pezzo property. G. Stomski said he would give the recommendation to the Board of Selectmen, they would discuss it. There are muddy waters as to what happened, but we're on the right track.

**7. Adjournment**

**MOTION:** R. W. Anderson moved to adjourn the meeting at 9:30 PM. D. Fuller seconded.

**UNANIMOUSLY APPROVED.**

FILED SUBJECT TO BOARD APPROVAL  
Respectfully submitted,

Linda Leigh  
Clerk

Tom Arras  
PO Box 857  
Woodbury, CT 06798  
203-263-0927  
12 May, 2010

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Board Of Finance  
Town Of Woodbury  
PO Box 3 69 Woodbury, 06798  
\*FOI REQUEST included\*

Dear Board Of Finance Members:

Firstly, at the April 28, 2010 BOF meeting I read a letter into the record, and in the brief discussion following it I made the statement that if we're not going to follow Town Charter we should disband the Charter Revision Commission. That statement was pertinent to my other comments, yet it is omitted from the minutes. I respectfully request that the comment be added to the April 28 minutes prior to their approval by you.

Next, the letter I read at the same meeting included an FOI request for copies of the financial analysis provided the board members for three properties under consideration for conveyance ( Pezzo property, the old Senior/Community Center, and property on Old Sherman Hill near Crawford and Connelly). The June 11, 2008 BOF minutes contain the sentence "A financial analysis of each of the three parcels will be provided to Board Of Finance members". Our Town Charter section 402 (J)(2)(b) regarding conveyances of property to the Town includes "...a written analysis of the financial impact of the acceptance of the conveyance on the Town shall be prepared and delivered by the First Selectman, or his designee, to the Board of Finance for its consideration and recommendation." Your June 11, 2008 minutes state "A financial analysis of each of the three parcels will be provided to Board Of Finance members."

Your response to my request was the November 5, 2008 BOF minutes containing discussion on the latter two properties listed above and nothing for the Pezzo property, and no analysis for any of the three properties. What I sought was the financial analysis mentioned in the June 11, 2008 BOF minutes, and specifically the charter required First Selectman, or designee,

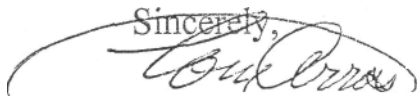
supplied written analysis for the Pezzo property. Once again I request under the Freedom of Information Act the above-mentioned analysis for each property as defined above. If any or all don't exist, please include that in your response.

Regarding the originally mentioned use of proceeds from the sale of the former Senior/Community Center building towards building projects, I have found further reference to the sale of that building. The October 11, 2006 EOF minutes mention that there is a thought that both the Old Town Hall "and the Community House could be sold." Your September 12, 2007 minutes regarding the Old Town Hall renovations, "W. Drakeley noted that the Community House sale was not included in the proposed motion." The motion pertained to the Old Town Hall project.

Your Jan. 9, 2008 minutes concerning "Old Senior Center Disposition" include the sentence "It was noted that according to the Town Meeting, the building was to be sold to defray the costs of the new senior center." BOF May 14, 2008 minutes, under "Old Senior Center" contains the sentence "Should the cost of the septic system be deducted from the property cost when it is put up for sale?" June 11, 2008 BOF minutes, under Old Senior Center/Community House, include "Presently, it is presumed that the building will be sold." Later, in BOF October 8, 2008 minutes under "Old Community Center Disposition" is "An appraisal was done on the building in the late Spring. After reviewing options it is thought that the building should be sold as a single family dwelling. Parking makes it impractical for other uses."

I recall voting for the new Senior Center project with the understanding that the old building be sold to offset the costs, and the Town should honor its end of the deal. This is especially important this year with our budget situation. It's actually unfortunate that the building hasn't already been sold so that it would be generating tax revenue versus burdening taxpayers.

Thank you for your consideration of these matters, and also in advance for your FOI compliance.

Sincerely,  


Tom Arras