

BOARD OF SELECTMEN – NOVEMBER 24, 2009  
HARMONY HALL

PRESENT – George A. Malliaros, Chairman, Joseph DiRocco, Jr., Vice-Chairman, John J. Zimini, Clerk, James M. O’Loughlin, Robert O. Cox, Dennis E. Piendak, Town Manager, Glen Edwards, Asst. Manager/Town Planner and Barbara Souza, Recording Secretary.

The Chairman called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was recited followed by a moment of silence being observed for our men and women serving in our armed forces.

WARRANT APPROVAL – Motion by Mr. DiRocco, seconded by Mr. Cox, **it was unanimously voted to sign the warrant.**

WARRANT/SPECIAL (PRIMARY) ELECTION FOR SENATE/DECEMBER 8<sup>TH</sup>, 2009 – Motion by Cox and seconded by Mr. DiRocco, **it was unanimously voted to sign the warrant.**

WARRANT/SPECIAL SENATORIAL ELECTION/JANUARY 19<sup>TH</sup>, 2010 – Motion by Mr. Cox and seconded by Mr. DiRocco, **it was unanimously voted to sign the warrant.**

APPROVAL OF MINUTES/MEETING OF OCTOBER 27, 2009 – Motion by Mr. Cox and seconded by Mr. DiRocco, **it was unanimously voted to approve.**

TOWN MANAGER’S REPORT – NEPBA Letter - Mr. Piendak stated that on Friday, he received a complete report and package of back-up material from the Chief of Police regarding matters outlined in a letter from the NEPBA to him; his next step is to begin conferring with Town Counsel which he expects to take place starting tomorrow. Regarding the Park Development on Lakeview Avenue (Dillon/McAnespie Park), the contractor discovered ledge and that is why work hasn’t taken place over the last week as a change order was processed; work should begin again very shortly. HINI Flu – Mr. Piendak reported that there is a wealth of material on the town website regarding the Board of Health’s response to the topic of HINI and proceeded to summarize the information. Bids were received today on a Bond Anticipation Note; this is temporary borrowing to fund some sewer activity, the park development project, the high school feasibility study and the Kenwood Water meters. It’s a 4.7 million dollar bond anticipation note for temporary financing until permanent financing is in place; interestingly, eight bids were received from institutions that want to loan money to the town and the lowest bid has a net interest cost on 4.7 million dollars of .576 which is a pretty

good interest rate. Stimulus Money – Mr. Piendak said he does not have any official paper work yet but there was a story in the newspaper today that the Governor is releasing additional stimulus money in the public safety area. Dracut had applied for \$82,000 for overtime to maintain fire services along with several other communities and according to the paper our grant was approved.

NATIONAL GRID/POLE PETITION/CHEEVER AVENUE - Mr. Malliaros noted that the public hearing portion was closed at the last meeting.

Phil Courcy, Senior Engineer for National Grid addressed that board and stated that with him this evening is Jason Small, Project Manager.

Mr. Piendak stated that at the last meeting, he was requested to send two letters posing the question of what would happen if the board did not grant this petition. One of those letters was addressed to town counsel and the board has his response before them this evening; the other was to National Grid, which was directed to our liaison, Ms. Anna Marcello but does not have a response.

Mr. Courcy stated that their counsel conferred with town's counsel this afternoon and agreed that he should not respond to the letter; they discussed the issue at length and said they would confer with you.

Mr. Malliaros noted that we have a response from our attorney which he said surprisingly enough, there are not a lot of appeals to appellate courts on the approval or disapproval of pole petitions.

Mr. Cox said he feels this is actually one of the most unusual situations that we've run into with a pole petition especially where the neighborhood is united in their belief that those poles are going to cause a problem in front of their property, so personally, he doesn't think he can support this.

Mr. Zimini noted that he was not at the last meeting and is wondering how many people would be affected on the actual outages if the poles don't go up there.

Mr. Piendak replied that they had a map at the public hearing that showed the service area which he said is quite large and encompasses part of Lowell also.

Following some discussion, Mr. Zimini said it bothers him that we sit here as a board and approve these petitions and we get assurances that

everything is going to be improved but there are still many outages every year and doesn't think their word is reliable on some of this; sometimes these outages are beyond their control. Mr. Zimini said he is not sure if he can support this at this point; he's not sure that National Grid has demonstrated enough to him that they will handle the siting of these poles in a manner that will be conducive to the neighborhood. He's also disappointed that he understands that we can't tell them to put it underground. Mr. Piendak said that was Counsel's opinion.

Mr. DiRocco quoted parts of town counsel's letter stating reasons the board can deny a petition and said the way he understands this is there is no valid reason for turning this down.

Mr. Malliaros said he doesn't remember the exact number of people who would be adversely affected by our failure to approve this but it's a large number of people; he wants to say 1,500 people is the number he heard but is not really certain.

Mr. Zimini said that is why he is perplexed; sometimes we have to talk about the greater good for the town and really doesn't know which way to vote on this at this point. He wants to support the neighborhood but also wants to support those individuals that are affected greatly many times a year by outages and only wishes that National Grid had come back and said they had a better plan or different route. Mr. Zimini said he agrees with Mr. DiRocco that it does look like we may not have a valid reason to deny it and therefore doesn't want us to cause an appeal that might go forward and cost the town more money with legal fees.

Mr. Cox said he thought the intent of the motion to ask for information was more towards how it's going to affect people's power and how many people are going to be affected.

Discussion continued regarding the possibility of holding this over until some of those issues have been clarified. Mr. Cox suggested that we allow National Grid to provide that information that was just spoken about and return at the next meeting, which he said is only a week away.

Mr. Malliaros asked if that information we're looking for is how many people would be adversely affected? Mr. Cox replied adversely affected or what would happen if we don't do it. Mr. Piendak said that was the intent of the letter sent to National Grid.

**Following some additional discussion, Mr. Cox moved to defer this until the meeting of December 1<sup>st</sup>. Mr. DiRocco seconded the motion.**

Mr. Malliaros asked Mr. Courcy if he was advised not to speak on that.

Mr. Courcy said he was advised not to answer the letter and that the attorneys would talk. As far as the board's question about what would happen if they didn't approve it; he feels the legal department has described the reasons that are needed to do that and the process for appeal if it was denied and said they hope to avoid that in every way. He said they do have to reaffirm that they do need a main line connection coming out of that substation and that comes down Cheever Avenue and said they are spending millions to upgrade this system to service a large area; at the last meeting we talked in terms of 1500 to 2000 customers and also that we are doing this to increase reliability, fewer outages, particularly outage duration. We all know that from the 2008 ice storm how long people can be out; they can be out long enough that is a public safety issue. Mr. Courcy continued to say that they did discuss this with engineers and planning, and they reaffirmed the need for them to go mainline down Cheever Avenue.

Mr. Malliaros asked if they discussed an alternative to which Mr. Courcy replied that they didn't have the time to study alternatives but they went back to the people who originally planned this; they studied the area and this was the preferred route for a number of reasons on their part. Mr. Courcy proceeded to explain by demonstrating on the map and concluded by saying that a lot of thought has been put into this plan along with a lot of money and effort into making it work.

Mr. Malliaros noted that unfortunately, there is more than just the neighborhood on Cheever Avenue that is affected by this decision.

Mr. O'Loughlin entered into discussion with the abutter, Mrs. McBride, about what their concern is; he asked if it was a question of moving the pole to a better location; is it obstructing something? Mrs. McBride replied that it is obstructing the whole entire house; it's obstructing the mailbox, the driveway, and his obstructing the entire view of the house. She said they have a very tiny small piece of property; they have to move their fence back because they are taking the whole entire front of the yard to put in the curb and now they are going to take the whole entire side of the yard to put this massive pole that is obstructing the entire view of her house. Mrs. McBride continued voicing her concerns.

Mr. Buxton explained that the town will be widening the street; the sidewalk is going on the opposite side of Arlington Street and is therefore comfortable where the pole is presently going to be located. Mr. O'Loughlin asked if he would still be comfortable if they were able to move that a little bit. Mr. Buxton said they could lay the sideline of the street out and have them set the pole right behind where the curb line is going to go so it is right on the curb line. Mr. O'Loughlin asked Mr. Courcy if they could do that to which he replied "yes." Mrs. McBride said they would appreciate anything they could offer them. It was agreed that Mr. Buxton will work in conjunction with National Grid.

Mr. Cox asked the McBride's if they were all set with that to which Mrs. McBride said to be honest, she would prefer that it not be there at all but anything that can be done to help make it less painful would be greatly appreciated.

Mr. O'Loughlin said that he feels if we can have Mr. Buxton try and move this away as far as possible and if something can be done with that guy wire. Mr. Courcy said they have addressed the guy wire, they will be moving that. Mr. O'Loughlin asked if they were moving that in a way that the McBride's will not be affected to which Mr. Courcy replied in the affirmative.

Mr. O'Loughlin said he feels this is as good as we're going to get; he feels the letter from Counsel somewhat tells us that we're on very thin ice unless we have something that says it's a public safety concern. He's glad to see that the DPW and the utility company will work to make this as least intrusive as it has to be on the McBride's.

**Mr. Cox withdrew his motion to defer. Mr. DiRocco withdrew his second.**

**Mr. O'Loughlin moved to approve this petition. Mr. DiRocco seconded the motion.**

Under discussion, Mr. Zimini said he sees the emotion from the neighbor and agrees that this makes it better for everyone. However, he wants to be clear about whether property will be taken from the McBride's and asked Mr. Buxton to clarify that they are not taking any property from them.

Mr. Buxton said it's the other side of the street that they will be reestablishing the right-of-way and proceeded to explain the proposed new construction.

Mr. Malliaros said it's obvious to him that the McBride's have done a terrific job with their new property and they have great pride in ownership with it and said he is confident that Mr. Buxton will do everything he possibly can to work with these people.

**The motion to approve passed unanimously.**

AGENDA ITEMS: Philippe Thibault, Chairman/Planning Board – Request for acceptance of check in the amount of \$12,000 from GB FFS Developers, LLC for Peer Review/CVS Proposal/4 Broadway Road – **Motion by Mr. Cox, seconded by Mr. O'Loughlin, it was unanimously voted to accept.**

Lori Cahill, Recreation Director – Request for acceptance of donations totaling \$200.00 from Lions Club of Dracut and Dracut Old Home Day for Halloween Movie Night – **Motion by Mr. Cox, seconded by Mr. DiRocco, it was unanimously voted to accept the donations.**

Jack Lyons, President/Dracut Access Television, Inc. – Mr. Lyons introduced the new local access director, Gary Meuse. Mr. Lyons proceeded to give a brief description of Gary's experience and background.

Mr. Meuse said it is great to see a lot of familiar faces noting that he grew up in Dracut and was here when cable TV was pioneered in town; he proceeded to give the board a brief summary of his past experience and accomplishments. The board welcomed Gary and wished him well.

RE: Reconstitution/Cable Advisory Committee – Mr. Lyons proceeded to say that he received a letter from the town manager regarding reconstitution of the Cable Advisory Committee; he noted that it was brought up at the last Selectmen's meeting and said that he did respond to that letter and tried to answer some of the questions that were brought up. He explained that the current DATV board members were in the capacity of the Cable Advisory Committee from day one. Since they did get the access corp. up and running, back at that time they were advised to try and work their way off of the Cable Advisory for the town because they are now on the Board of Directors of the access corporation and they didn't want to have any conflicts come about at that time so what they furnished to the town was a service to help out until such time as we could get the reconstitution back in order and come up with another Cable Advisory Committee. They had wanted to oversee the robotics at Harmony Hall and feel now is probably a good time to pull away and have the Board of Selectmen come up with a new advisory

committee. Mr. Lyons said he feels the board can structure it how they want as there is no set pattern as to how many members you can have. He noted that for the past couple of years he has pretty much been able to handle it himself with Barbara; there really weren't that many problems that came in other than the rates and programming; he continued explaining some of the other complaints he helped resolve. Mr. Lyons, referring back to his letter, said there was a question about how many people and how they were going to get appointed. "Is there a lot of work?" "Do you need a lot of people on it?" His own opinion is no; when it comes contract time and should Verizon show up with a proposal, then you would want to have the Cable Advisory Committee and possibly a member of the Selectmen to work on that. Mr. Lyons said if Verizon should show up he cannot envision, from what he has seen over the past couple of years, a lot of work negotiating with them as everything is pretty well set and is just a matter of working out the numbers with Verizon. Mr. Lyons continued to say that a lot of the questions he gets are why we don't have another party in town for some competition and as he has tried to explain to people, it is not the Board of Directors or the Town, it is strictly Verizon itself, when they're ready, they will come before us with a request. Upon concluding some additional remarks about Verizon, Mr. Lyons said he tried to outline some of the areas that the board can charge the Cable Advisory to do which he said is pretty standard as it is with the other communities.

Mr. O'Loughlin commented that he feels Mr. Lyons included everything we need to do and is just a matter of us separating ourselves from that past committee officially with a vote and decide how we want to appoint the new committee and to decide on a number.

Mr. Lyons commented that in a community of this size (approximately 30,000 people), and from what they've experienced over the years, it would really help a lot if the board could find someone technically knowledgeable in what has to be done and about the equipment; they were fortunate enough to have Lou Davirris with them a number of years back and Lou had some expertise along those lines which helped out a lot; he could understand how to talk to the Comcast technical people, particularly during the negotiations. Mr. Lyons said he does know of a couple of people who used to work in other communities in the cable access area and live in the Town of Dracut so it would be good if we could find someone like that. He noted that May Paquette is off their board now and she had participated in negotiations with this existing contract three years ago. The point he is making is there are people that are out there in the community, unless the board knows of other people,

it would behoove everyone to find a way to reach out to them and get some resumes in.

Mr. Malliaros said that anyone interested in serving on that committee should address the Board of Selectmen.

Mr. O'Loughlin asked that this be added to our December meeting and perhaps in the meantime the board can put together some thoughts on how many people we think should be on it and how we plan on advertising it and seeing if we can put together some sort of public service announcement.

Mr. Zimini asked Mr. Lyons if it was necessary to fully dissolve the current committee or is it better to just get resignations from those who can no longer serve because of their affiliation with DATV. He said there is no real dissolution to that committee, technically, May (Paquette) is still on it; she hasn't resigned or indicated a desire to leave that board and feels (Mr. Lyons) hit the nail on the head regarding expertise between her and yourself negotiating the last Comcast contract; there is a lot of work to it and you two plunged into it and did a tremendous job getting what was best for the town. Mr. Zimini said he would like to see that we just don't arbitrarily dissolve the committee, but maybe ask the members that were on that committee to resign and leave May there as sort of the foundation for the access committee and asked if that is something they (Selectmen) can do as a board.

Mr. Lyons replied that in talking to Dennis (Piendak) the last time this came about, the Selectmen decided to reconstitute the committee. Once you decide to do that, he believes the current committee would all come off of that and the new reconstituted committee would be the ones that would fall into place.

Mr. Zimini asked if it was his opinion that May would have to re-apply to which Mr. Lyons replied that he would think so and said that Mrs. Paquette hasn't said that she would, he just thought it would be a good idea if she were available because it's possible she is not available. Mr. Lyons said he feels the reconstitution would be the way to go. Mr. Piendak added that that is the way it was done the last time.

Mr. Malliaros reiterated that this will be placed on the agenda for the board's next meeting (December 1<sup>st</sup>).

OLD BUSINESS – Parker Avenue School – Mr. O'Loughlin stated that he read with interest that the school committee is talking about closing

Parker Avenue School and are appointing a subcommittee to talk about how to close that school and blend those students into other schools. He feels this board should take the time to speak with the school committee to see what their plans are for that building and see if that building would in fact work as a town hall; it appears to be a good structural building and has no idea what the cost would be but perhaps there could be some CPC money involved to restore an historic building such as the Parker Avenue and feels it's worth looking into. Mr. O'Loughlin said he would like to ask the Chairman to appoint him and another member to a subcommittee to look into that; or perhaps the standing school subcommittee could be used.

Mr. Malliaros said he feels that the board's standing Education Subcommittee could do that; he suggested that he and Mr. O'Loughlin (who make up that subcommittee) can schedule a meeting with them to discuss it.

Drug Investigation Report - Mr. Malliaros indicated that the board did receive a copy of correspondence to Chief Richardson from Chief Donovan which indicated that "they are waiting for the final round of "transactional immunity" grants from the Middlesex County District Attorney's office which should be in by the end of the month and will resume questioning the few employees left on the list." Mr. Malliaros continued reading the correspondence; Mr. Donovan advised Chief Richardson that he "will keep him personally updated."

Mr. DiRocco noted that the newspaper reported that Chief Donovan will be retiring in December and is hopeful that this gets finished up relatively quickly; it has gone on too long and needs to come to an end.

NEW BUSINESS- 40B Amendments - Mr. O'Loughlin noted that the board is in receipt of correspondence from Rep. Colleen Garry regarding some amendments being promulgated with regard to Chapter 40B (Comprehensive Permitting Law). There is a meeting coming up on December 21<sup>st</sup> in Boston regarding all these changes to the 40B regulations. He asked if Staff has plans to attend that meeting.

Mr. Piendak said it hasn't been decided as yet because it just came in yesterday. Mr. O'Loughlin said he realizes that between now and the next meeting, it's only a short week but if the board could have some sort of idea on whether or not we wish to attend that meeting; he feels if any board members have any thoughts or concerns on either attending or having Staff forward those concerns he feels we should stay on top of the

regulations. Mr. O'Loughlin continued commenting on some of the current 40B proposals.

Christmas Shopping – Mr. O'Loughlin stated that as he has done over the past eighteen years, he urged the people of Dracut, as they are starting their Christmas shopping, to try and make an effort to purchase one or two gifts at some of our local businesses so that they can have a healthy holiday season financially. He noted that these are the people that we turn to every year for various donations and it's the local little guy that is the backbone of the town and feels we can all make a real big difference on the businesses in town.

On a point of personal privilege, Mr. O'Loughlin said he would like to thank everyone who has taken the time to donate to the Food Pantry; last week, they had their largest opening in two years. He said about 130 to 140 Dracut families were serviced and fortunately, as busy as they were, they had enough to give everybody because people in Dracut have been so good by dropping items off at the Central Fire Station, Town Hall and the library. The schools have been heavily involved and said once again, Dracut always comes through. Mr. O'Loughlin said that on behalf of the Board of Directors, he wants to thank everyone for allowing them to service people who really need the help.

Mr. DiRocco asked how much the need has increased say perhaps in a year's time.

Mr. O'Loughlin said October of this year marked their second year open; their first month they had four families and said they have gone from four families two years ago to one hundred forty or forty five last Saturday. He said more people now know that they are there and a lot of it is the economy. Following some additional comments, Mr. O'Loughlin said the staff of volunteers who are involved are just wonderful people who will take people into the system and help them through it to get over their first time. He urged anyone in need to check the website or watch the newspaper for the openings.

Mr. DiRocco said that all the volunteers need to be thanked for doing such a great job. A brief discussion continued.

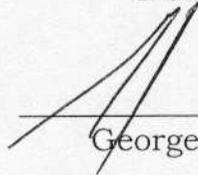
DHS Football – Mr. Malliaros reminded everyone that the big Thanksgiving Day football game between Dracut and Methuen will be taking place Thursday morning at 10:00 a.m. This year the winner goes on to the State Championship which he said makes it incredibly exciting

and said it should be a terrific football game. Mr. Malliaros urged the community to come out and support the team. Discussion continued.

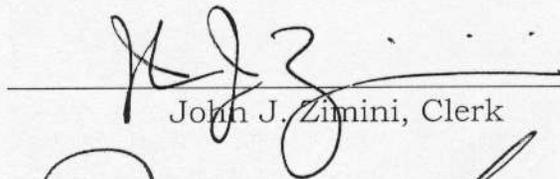
The Chairman read the Community Calendar.

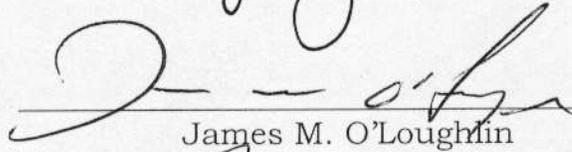
ADJOURNMENT – Motion by Mr. Zimini seconded by Mr. Cox, **it was unanimously voted to adjourn the meeting at 8:20 p.m.**

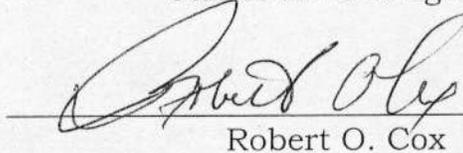
BOARD OF SELECTMEN

  
\_\_\_\_\_  
George A. Malliaros, Chairman

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Joseph DiRocco, Jr., Vice-Chairman

  
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John J. Zimini, Clerk

  
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James M. O'Loughlin

  
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Robert O. Cox