

From: Susan Mazurski April 12, 2011 11:23:13 AM
Subject: Board of Selectmen Minutes 03/14/2011 APPROVED
To: SimsburyCT_SelectMin
Cc:

TOWN OF SIMSBURY - BOARD OF SELECTMEN
REGULAR MEETING MINUTES
MARCH 14, 2011

CALL TO ORDER

The Regular Meeting of the Board of Selectmen was called to order at 7:00 p.m. in the Main Meeting Room of the Simsbury Town Offices. Present were: First Selectman Mary Glassman; Board members Moira Wertheimer, John Hampton, Lisa Heavner, Robert Hensley and Nancy Haase. Other interested parties in attendance were Thomas Cooke, Michael Foley and Hiram Peck.

PLEDGE OF ALLEGIANCE

Everyone stood for the Pledge of Allegiance.

PRESENTATIONS

The Special Olympic Athletes who competed in the recent Special Olympic Games held at CL&P were applauded by the Board. Ms. Glassman thanked the athletes, coaches and volunteers and presented each athlete with an award certificate.

The Village of Tariffville was chosen by This Old House as a Best Old-House Neighborhood of 2011 because of its astonishing selection of great homes and the community spirit that supports them. www.thisoldhouse.com/best-places

Route 10 Corridor Study. Ms. Glassman advised that this study will be an on-going topic on each Board of Selectmen agenda until its completion in September, 2011. Hiram Peck gave an update on the progress of the project. Mr. Peck stated that the plan from the Corridor Charrette showed a variety of alternatives that could, after proper permitting, be built if residents want to keep Route 10 a two lane road. The next Steering Committee meeting will be on March 24th.

Community Farm of Simsbury. Executive Director Tim Goodwin gave the Board an update on the activities at the Farm. He advised the Board that Simsbury Bank is funding two visits to the Farm for each of the first grade classes in Town and the Grand Opening of the Community Learning Center will be held on April 14th. Ms. Glassman asked Mr. Goodwin to report to her the number of Simsbury residents who benefited from the programs and the food donations from the Farm per the stipulations in Antoinette Eno's Will.

FIRST SELECTMAN'S REPORT

The Simsbury Police Department is taking the necessary steps to obtain national accreditation from the Commission on Accreditation for Law Enforcement Agencies (CALEA). In order to obtain accreditation, the department will have to demonstrate that it meets professionally recognized criteria for excellence in management and service delivery.

PUBLIC AUDIENCE

Joan Coe, 26 Whitcomb Drive. Ms. Coe would like to see a Town Manager form of Government for Simsbury. She is unhappy with the Capital Improvement Plan; too much money is being

spent. Since the Finance Director left she feels that the fiscal management of the Town is at risk and the Finance Dept. is in chaos. She reported that there are three properties in Town that are renting rooms in violation of zoning regulations; Mike Paine, Planning Chairman did not report his involvement with Paine's Inc. on his Conflict of Interest form; Linda Johnson has moved to Avon and is still Chairman of the Culture, Parks and Recreation Commission and a Democrat has still not been appointed to the Water Pollution Control Board after six months.

Jim Solomon, 40 Sand Hill. Would like to request an investigation of zoning regulations and would like to see a cease and desist order issued at the Girard property on Sand Hill.

Ms. Glassman asked the Board to amend the agenda to discuss the Sand Hill matter.

Mr. Hampton made motion to amend the March 14, 2011 agenda to include discussion of the Sand Hill matter. Ms. Heavner seconded the motion. Ms. Wertheimer, Ms. Haase and Ms. Glassman agreed; Mr. Hensley abstained. The motion passed.

Sue Bednarczyk, 119 E. Weatogue Street. Is concerned about land use planning. With regard to the Center Charrette she feels it needs to be looked at globally; is concerned that Route 10 will become a 4 lane road.

Tom Brown, 30 Sand Hill. Wants to file a blight complaint on the Girard property. Material is being stored there and the building is not legal, it should be condemned and taken down.

SELECTMEN ACTION

a) Approve Tax Refunds

Ms. Heavner made motion to approve the tax refunds in the amount of \$656.06 as submitted by the Tax Collector on March 14, 2011. Mr. Hampton seconded the motion. All were in favor and the motion passed.

b) Consideration and possible approval of Thomas F. Cooke, Director of Administrative Services, as Acting Director of Finance-Treasurer

Thomas Cooke, Director of Administrative Services explained that Kevin Kane, Director of Finance-Treasurer gave two weeks notice that he was resigning. In response to this Mr. Cooke arranged for a consultant, Michael Foley, to fill in while a search was on for a new Director of Finance-Treasurer. In the meantime, an interim Treasurer has to be appointed and after approval of the Board of Finance Mr. Cooke was selected. Mr. Cooke will be authorized to sign all checks.

Mr. Hampton made motion to approve the appointment of Thomas F. Cooke, Director of Administrative Services, as Acting Director of Finance-Treasurer. Mr. Hensley seconded the motion. All were in favor and the motion passed.

c) Consider the recommendations for revision to the Town of Simsbury Tax Abatement Program

Mr. Peck explained the requested revisions; the Business Development Committee raised some questions on the current guidelines and would like to make some changes. Mr. Peck will provide a red lined draft version for the Board to consider.

d) Budget Update – Board of Finance Presentation March 15, 2011

Ms. Glassman advised that the Board of Finance will hear the Board of Selectmen Budget on March 15th after the Board of Education Budget presentation.

e) Review, discuss and possibly approve legal language for the Annual Town Meeting and Referendum

Ms. Glassman advised that the legal language for the notice of Town Meeting came from the law firm of Day Pitney. It is exactly what is put in every bond project because it is not known what amount the bid will come in; the Board does have the authority to modify the amount.

The following language was read into the record:

Item 1:

Ms. Wertheimer introduced the following resolution, which was seconded by Mr. Hensley. All were in favor and the motion passed.

RESOLVED, that the Board of Selectmen hereby (1) approves the following project, which was previously included in the Town's Capital Improvement Plan for the current fiscal year: improvements to the Simsbury Farms Facility, including renovation of the Simsbury Farms Main Building including improvements to the bathrooms, locker rooms, food concession facility, and first aid area, the addition of approximately 1,000 square feet of new construction, and improvements to the skating rink support rooms and pool deck and improvements to the Simsbury Farms Golf Course; (2) recommends that the Town of Simsbury appropriate \$3,061,000 for the project; and (3) that the Town authorize the issue of bonds or notes and temporary notes in an amount not to exceed \$3,061,000 to finance the appropriation; and that the term of the bonds or notes not exceed ten years.

The resolution was approved by six votes in favor and zero votes opposed.

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Item 2:

Ms. Haase introduced the following resolution, which was seconded by Ms. Heavner.

RESOLVED, that pursuant to Section 910 of the Charter, the Board of Selectmen calls the Annual Town Meeting for consideration of the budget to be held on the first Tuesday of May, May 3, 2011 at 7:30 P.M. in the Simsbury High School Auditorium, 34 Farms Village Road.

The resolution was approved by six votes in favor and zero votes opposed.

Item 3:

Mr. Hampton introduced the following resolution, which was seconded by Mr. Hensley.

RESOLVED, that pursuant to Section 509 of the Charter, the Board of Selectmen calls a Special Town Meeting for Tuesday, May 3, 2011 immediately following the Annual Town Meeting for consideration of the budget scheduled for 7:30 P.M. in the Simsbury High School Auditorium, 34 Farms Village Road to consider and act upon a resolution as outlined in the Notice of Special Town Meeting, which is attached to these Minutes as Appendix "A", which notice is hereby approved.

FURTHER RESOLVED,

(a) that pursuant to Section 506 of the Charter the resolution under item _ of the Notice of Special Town Meeting, regarding an appropriation and bond and note authorization for improvements to the Simsbury Farms Facility shall be submitted to the voters in the manner provided by said Section on May 17, 2011, between the hours of 6:00 A.M. and 8:00 P.M.

(b) The resolution shall be placed upon the voting machines or paper ballots under the following heading:

“SHALL THE TOWN OF SIMSBURY APPROPRIATE \$3,061,000 FOR IMPROVEMENTS TO THE SIMSBURY FARMS FACILITY AND AUTHORIZE BONDS AND NOTES IN THE SAME AMOUNT TO FINANCE SAID APPROPRIATION?”

Voters approving said resolution will vote “Yes” and those opposing said resolution shall vote “No”.

Electors and People qualified to vote in town meetings who are not electors will vote at the following polling place:

Henry James Memorial Junior High School Gymnasium
155 Firetown Road, Simsbury, Connecticut

Absentee ballots will be available from the Town Clerk’s office.

(c) Notice of the referendum shall be given by the Town Clerk and incorporated into the notice of the Town Meeting.

The resolution was approved six votes in favor and zero votes opposed.

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The meeting adjourned at 9:33 P.M.

Clerk

Board of Selectmen

f) Review, discuss and approve the notice of Special Town Meeting and Referendum

Mr. Hensley made motion to read the following notice of Special Town Meeting and Referendum. Mr. Hampton seconded.

The following language was read into the record:

NOTICE OF SPECIAL TOWN MEETING

TOWN OF SIMSBURY

MAY 3, 2011

REFERENDUM MAY 17, 2011

A special town meeting of the electors and citizens qualified to vote in town meetings of the Town of Simsbury, Connecticut, will be held at Simsbury High School Auditorium, 34 Farms Village Road, in the Town of Simsbury, Connecticut, on Tuesday, May 3, 2011 immediately following the

Annual Town Meeting for consideration of the budget scheduled for 7:30 P.M. The Special Town Meeting will be held to consider and discuss the following resolution:

1. IMPROVEMENTS TO THE SIMSBURY FARMS FACILITY

RESOLVED,

(a) That the Town of Simsbury appropriate THREE MILLION SIXTY-ONE THOUSAND DOLLARS (\$3,061,000) for improvements to the Simsbury Farms Facility. The project shall include renovation of the Simsbury Farms Main Building including improvements to the bathrooms, locker rooms, food concession facility, and first aid area, the addition of approximately 1,000 square feet of new construction, and improvements to the skating rink support rooms and pool deck (estimated cost \$2,836,000) and improvements to the Simsbury Farms Golf Course (estimated cost \$225,000). The appropriation may be spent for design and construction costs, survey fees, site work, equipment, materials, furnishings and supplies, architects', engineering and other consultants' fees, legal fees, net temporary interest and other financing costs, and other expenses related to the project and its financing. The Board of Selectmen may determine the particulars, and may reduce or modify the scope, of the project, and the entire appropriation may be spent on the reduced or modified project.

(b) That the Town issue bonds or notes in an amount not to exceed THREE MILLION SIXTY-ONE THOUSAND DOLLARS (\$3,061,000) to finance the appropriation for the project. The bonds or notes shall be issued pursuant to Section 7-369 of the General Statutes of Connecticut, Revision of 1958, as amended, and any other enabling acts. The bonds or notes shall be general obligations of the Town secured by the irrevocable pledge of the full faith and credit of the Town. The term of the bonds or notes shall not exceed ten years.

(c) That the Town issue and renew temporary notes from time to time in anticipation of the receipt of the proceeds from the sale of the bonds or notes for the project. The amount of the notes outstanding at any time shall not exceed THREE MILLION SIXTY-ONE THOUSAND DOLLARS (\$3,061,000). The notes shall be issued pursuant to Section 7-378 of the General Statutes of Connecticut, Revision of 1958, as amended. The notes shall be general obligations of the Town and shall be secured by the irrevocable pledge of the full faith and credit of the Town. The Town shall comply with the provisions of Section 7-378a of the General Statutes with respect to any notes that do not mature within the time permitted by said Section 7-378.

(d) That the First Selectman and the Treasurer of the Town shall sign any bonds or notes by their manual or facsimile signatures. The law firm of Day Pitney LLP is designated as bond counsel to approve the legality of the bonds or notes. The First Selectman and the Treasurer are authorized to determine the amounts, dates, interest rates, maturities,

redemption provisions, form and other details of the bonds or notes; to designate one or more banks or trust companies to be certifying bank, registrar, transfer agent and paying agent for the bonds or notes; to provide for the keeping of a record of the bonds or notes; to designate a financial advisor to the Town in connection with the sale of the bonds or notes; to sell the bonds or notes at public or private sale; to deliver the bonds or notes; and to perform all other acts which are necessary or appropriate to issue the bonds or notes.

(e) That the Town hereby declares its official intent under Federal Income Tax Regulation Section 1.150-2 that project costs may be paid from temporary advances of available funds and that the Town reasonably expects to reimburse any such advances from the proceeds of borrowings in an aggregate principal amount not in excess of the amount of borrowing authorized above for the project. The First Selectman and the Treasurer are authorized to amend such declaration of official intent as they deem necessary or advisable and to bind the Town pursuant to such representations and covenants as they deem necessary or advisable in order to maintain the continued exemption from federal income taxation of interest on the bonds or notes authorized by this resolution, if issued on a tax-exempt basis, including covenants to pay rebates of investment earnings to the United States in future years.

(f) That the First Selectman and the Treasurer are authorized to make representations and enter into written agreements for the benefit of holders of the bonds or notes to provide secondary market disclosure information, which agreements may include such terms as they deem advisable or appropriate in order to comply with applicable laws or rules pertaining to the sale or purchase of such bonds or notes.

(g) That the Board of Selectmen, the Treasurer and other proper officers of the Town are authorized to take all other action which is necessary or desirable to complete the project and to issue bonds, notes or other obligations to finance the aforesaid appropriation.

2. Pursuant to Section 506 of the Town Charter, to adjourn said town meeting at its conclusion and to submit the resolution presented under item 1 to vote upon voting machines or paper ballots between the hours of 6:00 A.M. and 8:00 P.M. on Tuesday, May 17, 2011 under the following heading:

“SHALL THE TOWN OF SIMSBURY APPROPRIATE \$3,061,000 FOR IMPROVEMENTS TO THE SIMSBURY FARMS FACILITY AND AUTHORIZE BONDS AND NOTES IN THE SAME AMOUNT TO FINANCE SAID APPROPRIATION?”

Voters approving said resolution will vote “Yes” and those opposing said resolution will vote “No”.

Electors and People qualified to vote in town meetings who are not electors will vote at the following polling place:

Ms. Glassman advised that Paine's Inc., in addition to removing the collected litter, would also be collecting electronics for disposal.

Ms. Heavner made motion to approve the use of the Town Hall parking lot for Linda Schofield Linda's Litter Lugging Day on April 9, 2011. Ms. Haase seconded the motion. All were in favor and the motion passed.

i) Approve transfer from reserves for Memorial Park paving project and Central School project

Ms. Glassman noted that both of these items were on the CIP; the improvements to Memorial Park and the improvements to Central School prompted by a Civil Rights Compliance Review Action Plan for the Board of Education.

Mr. Hampton made motion to approve the transfer from reserves for the Memorial Park paving project and the Central School project. Mr. Hensley seconded the motion. Ms. Haase, Ms. Heavner and Ms. Glassman approved; Ms. Wertheimer abstained. The motion passed.

Discussion of amended item, 16 Sand Hill.

Ms. Glassman stated that it is important for all to understand the role of the Board of Selectmen in this particular issue. The neighbors feel that the land is not properly zoned and is not being properly used. Mr. Solomon stated that the place is a mess and the history of the property is obscure. It is not clear about what can and cannot go on at that property.

Ms. Glassman stated that both Zoning Enforcement officials were there, there is a right to appeal the official's findings. The Board of Selectmen has no say in this matter; it is illegal for them to direct any Zoning officials how to do their work.

A title search has been started; and according to the zoning records in 1933 this property is not a part of Sumatra or Ensign-Bickford.

Ms. Glassman recommended that the Board of Selectmen take all of the information that is being presented tonight and refer it to the Zoning Commission. There is a disagreement between the property owner and the neighbors about the non-conforming use of the property. Ms. Glassman stated that the Board of Selectmen has no power to make a decision in this matter.

Mr. Brown did ask Ms. Glassman to use her power to assign an attorney to this matter. The neighbors are not satisfied with the work that Town Atty. DeCrescenzo has done regarding this situation. He requested a third party professional; Ms. Glassman suggested that since the Board of Selectmen has no authority in this matter that he request the Zoning Commission to appoint a third party attorney. The Board of Selectmen could appropriate

funds for this. The Board of Selectmen cannot direct Town staff to issue a cease and desist. Mr. Brown questioned Ms. Glassman about her capability, as Chief Executive Officer of the Town, to order a Zoning Enforcement Official to respond to a citizen request. Ms. Glassman responded that she can

direct Town staff to respond to a complaint, but it would be illegal for her to tell them what to find; if they say there is no violation she cannot order them to find one. She said to follow the process if you don't agree with the ZEO, pay the \$150 fee to go before the Zoning Commission. There will never be a resolution at a Board of Selectman meeting.

Mr. Brown stated that he had not been to the Zoning Commission but did send an e-mail. He indicated that he would attend a Zoning Commission and ask that the agenda be amended to include discussion on Sand Hill.

Mr. Peck advised that a complainant should forward information to the Zoning Commission in order for them to have an intelligent discussion about it. They need information to respond to and it should not be addressed by amending an agenda.

Mr. Brown also mentioned that there is an unsanitary condition on the site; Ms. Glassman said she would refer it to the Health District.

Ms. Heavner asked for clarification from Mr. Peck regarding the action taken by a Zoning Enforcement Officer. If a ZEO takes action that action can be appealed and if no action is taken can that also be appealed? Mr. Peck said he would defer this question to the Town Atty.

Val & Debra Ouellette, 32 Sand Hill – requested that each BOS member visit 16 Sand Hill and observe the erosion. At a recent Conservation Commission meeting this property was referred to as a stump dump. Ms. Glassman wants to check the status of the Conservation Commission action.

Joseph Mulshine stated that this whole issue was set in motion by an opinion of Atty. DeCrescenzo; why wasn't Girard sent to any board. Mr. Beach has the conflict of working for the Town because he wants to keep his job. Ms. Glassman took offense to this and asked for written allegations from Mr. Mulshine regarding Mr. Beach's conflict of interest. Ms. Glassman offered to be put under oath if necessary to prove that she never influenced Mr. Beach. Mr. Beach will no longer be sent to the site, inspections will be done by Ms. Charest.

Mr. Hensley reiterated to the group that there is a process to be followed and they need to be in front of the Zoning Commission as an agenda item.

Mr. Brown informed the Board that they filed an appeal with the ZBA tonight.

Ms. Glassman asked for a motion to waive the fee for Mr. Brown to file a complaint with the ZBA.

Mr. Hampton made motion to waive the \$130 fee for Tom Brown to file a complaint with the ZBA. Ms. Heavner seconded the motion. Ms. Wertheimer and Ms. Haase voted against; Mr. Hensley abstained and Ms. Heavner withdrew her second and abstained. The motion failed.

Ms. Glassman and Mr. Brown discussed his filing of a formal complaint with the ZBA. He apologized for misunderstanding her previous question about filing a complaint and said that he had filed a complaint with the ZBA on the decision not to enforce. Not a blight complaint.

Hours of operation were discussed. Mrs. Ouellette stated that in the early 1990's the hours were enforced, Mr. Bernstein from 21 Sand Hill asked which Board they can approach to achieve reasonableness. This question should be included in the appeal to the Zoning Commission. According to Mr. Peck there is no noise ordinance; and thus there is no way for the Town to enforce specific noise requirements. Often a developer will agree to curtail noise as part of an approval of an application. This was done in the Hoffman matter, for example. However, in this case, there is no application in front of the Zoning Commission.

A Noise Ordinance is a lengthy document which is hard to enforce. Refers to decibel levels; tied in to OSHA regulations with back up signals, etc. Often the noise has stopped or ceased to exist when staff comes to a site.

Mr. Peck emphasized that the items for discussion before the ZC should be put in writing and brought to their attention prior to the meeting.

Mr. Solomon thanked the Board for listening; he stated that Mr. Girard said he would not operate prior to 7:00 a.m. or after 4:30 p.m. weekdays and weekends. All are hiding behind the non-conforming use.

Mr. Hampton made motion to refer the 16 Sand Hill matter to the Zoning Commission. Ms. Wertheimer seconded the motion. Ms. Glassman and Ms. Haase approved; Mr. Hensley and Ms. Heavner recused themselves. The motion passed.

OTHER BUSINESS

a) Review of 2010 Grand List

Ms. Glassman advised that no additional revenue is being generated.

APPOINTMENTS AND RESIGNATIONS

a) Confirm liaison appointments from former Selectman Gerald Post to new Selectman Nancy Haase

Ms. Wertheimer made motion to assign liaison appoints from former Selectman Gerald Post to new Selectman Nancy Haase. Mr. Hampton seconded the motion. All were in favor and the motion passed.

ACCEPTANCE OF MINUTES

Mr. Hampton made motion to approve the minutes of the Budget Workshop Meeting of February 28, 2011 with corrections. Ms. Wertheimer seconded the motion. Ms. Haase abstained. All were in favor and the motion passed.

Mr. Hampton made motion to approve the minutes of the Regular Meeting of February 28, 2011 with corrections. Mr. Hensley seconded the motion. Ms. Haase abstained. All were in favor and the motion passed.

SELECTMEN LIAISON AND SUB-COMMITTEE REPORTS

Personnel

Mr. Hensley reported on the Personnel Sub-Committee meeting that was held this evening. The Committee discussed the salary range for the Director of Finance-Treasurer position that is now vacant due to the resignation of Kevin Kane. The current salary range is \$76,821-\$117,824. A comparative group study was done with comparable towns and came up with a range of \$84,000- \$126,124. There is a concern that some towns have current positions that are higher than what we have; the recommendation is to change the range to \$80,000-\$135,000. After discussion it was taken to \$80,000-\$130,000 which we feel would provide a great pool of candidates and also show a new candidate that there was opportunity to grow. This is in concert with the Salary Review that is currently on-going and so it could alter slightly.

Mr. Hensley also reported on the Job Description for the Director of Finance-Treasurer position. Currently, there is no requirement for a CPA and also the Risk Manager position reports to the Director of Finance-Treasurer. It also must be made clear that the Director of Finance-Treasurer is expected to attend the meetings of the Board of Finance.

Mr. Hensley is prepared to amend the agenda to take up these two items.

Mr. Hensley made motion to amend the agenda to add the salary range and job description changes to the position of Director of Finance-Treasurer. Mr. Hampton seconded the motion. All were in favor and the motion passed.

Mr. Hensley made motion to change the salary range of the Director of Finance-Treasurer from \$76,821-\$117,842 to \$80,000-\$130,000. Mr. Hampton seconded the motion. All were in favor and the motion passed.

Mr. Hensley made motion to accept the draft of the position description of the Director of Finance-Treasurer with an emphasis on the night work and the modifications to the position summary adding the requirement of a CPA. Ms. Wertheimer seconded the motion. All were in favor and the motion passed.

The job will now be posted.

Finance

The Board of Finance will meet on Tuesday, March 15th at 6:00 p.m. to present the Board of Selectmen Budget.

Public Safety

There will be a meeting on Thursday, March 17th at 7:00 a.m. Ms. Glassman thanked all of the

members of the Public Safety Sub-Committee for their assistance during the recent flooding.

Board of Education

Nothing to report

Mr. Hensley reported that he would be participating in the Police Department on site assessment program on April 18th. He also noted that he referred Vince Kennedy, owner of Createx Colors a large supplier of air brush paints, to Mickey to possibly hold an airbrush class for the seniors.

Mr. Hensley explained to the Board that he would always need to recuse himself from Sand Hill matters as he has a business relationship with Simscroft Echo Farms.

Ms. Haase reported that at the WPCA meeting on 3/10/11 the board unanimously voted in favor of 10 year amortization of the Facility Connection Charge. The WPCA along with the EDC, Chamber and Town had been

reviewing this matter over the last few months. The option to amortize the one-time charge is available to both commercial and residential properties. The developer of the West Street/Hopbrook project was in attendance and stated that while this was a favorable option, he would be coming before the board next month to share comparative information regarding calculating hook-up charges based on flow/bedrooms as an alternative option that he hoped the board would consider.

Ms. Heavner made motion to adjourn at 9:33 p.m. Seconded by Mr. Hensley. All were in favor and the motion passed.

Respectfully submitted,

Mary A. Glassman
First Selectman