

MINUTES OF THE REGULAR MEETING OF THE BOARD OF SELECTMEN

August 6, 2015

The regular meeting of the Board of Selectmen was called to order at 7:06 pm in the community room of the North Haven Memorial Library, 17 Elm Street, North Haven, CT.

Members Present

First Selectman, Michael J. Freda

Second Selectman, Timothy M. Doheny

Third Selectman, Sally J. Buemi

Mr. Freda welcomed everyone to the meeting. He introduced himself and his fellow Selectmen Timothy Doheny and Sally Buemi. Following the recitation of the Pledge of Allegiance, Mr. Freda asked if there were any public comments relative to the agenda.

Mr. Raymond Sonazzaro, Elm Street, seeing Miss Buemi's item to discuss the Fire Department Building Project, wished to share his belief that the Town does not need four firehouses. Mr. Freda thanked Mr. Sonazzaro for his comments.

Moving on to the next item of business, Mr. Doheny motioned for the approval of the minutes of the regular Board of Selectmen's Meeting on July 2, 2015; Miss Buemi seconded the motion.

Vote: Freda -Yes, Doheny -Yes, Buemi - Yes

Miss Buemi motioned and Mr. Doheny seconded for the approval of the minutes of the Special Board of Selectmen's meeting of July 20, 2015.

Vote: Freda- Yes, Doheny- Yes, Buemi - Yes

Mr. Freda noted that there was no correspondence, and progressed the meeting with an overview. During his overview, Mr. Freda shared several ongoing projects and updates around the Town, including economic development, financial updates, and community programs.

Following Mr. Freda's overview, Miss Buemi had some items on the agenda to discuss. Miss Buemi opened her comments by sharing her intent to discuss the procedural matters of changing the chain of command in the Public Works Department. Miss Buemi shared that she believes that Chapter VIII of the Town Charter grants the Board of Selectmen the authority to determine job descriptions and any changes to such. Miss Buemi stated the since last

meeting, she had spoken with both her legal advisors and Town Attorney Bill Ryan regarding the matter. According to Miss Buemi, Mr. Ryan told her that he believes that Chapter V, specifically section 502 of the Town Charter specifies that a First Selectman is the Chief Executive Officer of the Town, and in that role has the authority to operate the Town as he sees fit. She then explained that she did not feel as though the Director of Finance would be qualified to supervise over Field Operations matters and therefore she, as a member of the Board of Selectmen, would have liked to have been able to weigh in on this decision.

Mr. Freda explained that while he appreciates Miss Buemi's points, in 2008, the previous administration had changed the chain of command in Public Works. Mr. Freda further explained that the document had been signed by the First Selectman at the time, the Union President, as well as the current Town Attorney.

Miss Buemi pressed on and stated that she was not concerned with the substance of the change, being that of Mr. Palma's new responsibilities, but was concerned with the procedural matters involved. She then shared the minutes from the April 2, 2015 meeting. This meeting, she stated, was the first meeting the change of command had been brought up in Public Comment. The minutes stated that Mr. Palma reported to Mr. Swinkoski. Mr. Freda thanked Miss Buemi for her thoughts, and welcomed Attorney Jeff Donofrio to speak on the matter.

Mr. Donofrio shared that after the last regular Board of Selectmen's meeting, he too, did some research on the matter. He not only looked at the Charter, but the State Statutes as well. Referring to section 7-12a, Jeff explained that the First Selectman is the Chief Executive Officer of the Town. This mirrors section 501 in the Town Charter. Mr. Donofrio continued and stated that while it is difficult to find a previous case to cite regarding this exact issue, because no town has a Charter matching our own. However, there have been cases challenging a First Selectman's authority to terminate an employee; in all these cases, Mr. Donofrio explained that the courts have interpreted that in the absence of a charter provision limiting the First Selectman's authority, that authority is an implied power for the Chief Executive Officer as a necessity to perform his public duties for the municipality. From this, Mr. Donofrio stated that if a First Selectman can terminate an employee without being challenged, he would interpret that they inversely can determine changes in supervisory roles as means of adhering to section 7-12a of the State Statutes.

Focusing on Miss Buemi's cited Chapter VIII of the Town Charter, Mr. Donofrio shared that he disagreed that the chapter has anything to do with defining duties of Town employees. Referring to Section 801, Mr. Donofrio clarified that job "specifications" means "qualifications", and the Chapter does not say anything about the management or duties of personnel. Mr. Donofrio then

explained that in common practice among the State, the First Selectman is the only qualified member of the Board of Selectmen to manage and supervise the Town, because he is the only member who is involved in the day to day operations of the municipality.

Following some discussion, Miss Buemi questioned why the Board of Selectmen had the authority to meet to discuss Chief Landisio's pending retirement. Mr. Donofrio explained that as long as his experience with the Town, the Town of North Haven policy has always had the Board of Selectmen meet to approve a pension. The chain of command issue, meanwhile has nothing to do with pensions, and therefore is not within the Board of Selectmen's jurisdiction. Following more discussion between the two, Mr. Doheny shared that although he did not have a strong legal background, he felt as though it was not the Board of Selectmen's job to run the Town. Mr. Doheny paralleled his reasoning to a business: a Board of Directors would not be responsible for outlining job descriptions and duties, and nor should they. He further pointed out that if the Board did entertain job descriptions, they would mostly rely on the Department Head's depiction of their employees' responsibilities anyway.

Miss Buemi addressed her next item to discuss the Fire Department Building Project, specifically Firehouses 3 and 4. Miss Buemi stated that she has had issues with the ongoing project, and she feels as though the residents have not gotten everything that was promised to them during the initial planning stages of the project. Miss Buemi was concerned because during previous Fire Commission meetings, Chief Landisio has said that the interior of buildings 3 and 4 is pending for budgetary matters, and they are waiting to hear from Mr. Freda before proceeding; henceforth, Miss Buemi asked Mr. Freda for an update.

Mr. Freda explained that the interior of the buildings has not been completed because they are waiting for the final reconciliation of the audit. This audit will indicate how much money is left to renovate the interior buildings. From this, Mr. Freda pressed that the Fire Commission has not spent more than they have been authorized. Mr. Freda then welcomed Fire Commission Chairman Pat Nuzzolillo to speak further about the matter.

Chairman Nuzzolillo recognized that Miss Buemi has been following the Building Project very closely. He addressed her concerns that residents have not gotten everything that was promised by explaining that the improvements to the buildings have been predicated by the bid process itself. The Commission has stayed within its budget. Chairman Nuzzolillo explained that in order to make sure the Commission stays within the budget, they must wait for the reconciliation audit to be completed; after which the Commission will know how much money they can use going forward, and plan their project based on the remaining budget.

Miss Buemi then questioned the original plans of Buildings 3 and 4. She asked Chairman Nuzzolillo if he believed the Commission would have the appropriate funds to execute their original plans. Chairman Nuzzolillo explained that this would only be determined once they go out to bid. Miss Buemi then asked if Chairman Nuzzolillo was aware of any special problems which might arise, citing the Northeast Building as an example. Chairman Nuzzolillo said no, he had not been advised of any such problems. Miss Buemi then pointedly asked if there was any asbestos in that building. Chairman Nuzzolillo said he did not know the answer to that question.

Mr. Doheny asked the Chairman if any changes in the Building Project had any negative effect on the Fire Department, including preparedness or response time. Chairman Nuzzolillo stated it has not. The on-going project has significantly improved the Department's infrastructure, explaining that their apparatus could not even fit into their base prior to the project, among other examples. Chairman Nuzzolillo is confident that the Department is far more prepared than they were prior to the project.

There being no further discussion on the matter, Mr. Freda explained that there was no need to entertain a vote for Executive Session, that the item had been placed there as a precautionary measure, and moved on to the next order of business.

Mr. Doheny moved and Miss Buemi seconded the reappointment of Hugh Davis (D) 1261 Ridge Road to the Conservation Commission to a four (4) year term to expire August 31, 2019.

Vote: Freda – Yes, Doheny – Yes, Buemi – Yes

Miss Buemi moved and Mr. Doheny seconded the reappointment of Raymond Sola (D) 44 Cloudland Road to the Conservation Commission to a four (4) year term to expire August 31, 2019.

Vote: Freda – Yes, Doheny – Yes, Buemi – Yes

Mr. Doheny moved and Miss Buemi seconded the appointment of Dorothy Logan (D) 2065 Hartford Turnpike to the Board of Education to fill the unexpired term of Alicia Clapp to expire December 1, 2015.

Vote: Freda – Yes, Doheny – Yes, Buemi – Yes

Mr. Freda moved and Miss Buemi seconded the appointment of Michael Parisi (R) 10 Victor Road to the Cable TV Advisory Council for a two (2) year term to expire August 31, 2017.

Vote: Freda – Yes, Doheny – Yes, Buemi – Yes

Mr. Doheny then read the list of current vacancies for boards and commissions. Any interested persons can send their resume to the Selectman's Office for consideration.

Miss Buemi motioned for the release of the following bond: #P13-29 – 311 Washington Avenue – Luigi Ferraro (Hertz Rental) – release the entire bond balance in the amount of \$2,500.00 with the recommendation of the Planning & Zoning Commission. Mr. Doheny seconded the motion.

Vote: Freda – Yes, Doheny – Yes, Buemi – Yes

Miss Buemi moved for the release of the following bond: #P14-06 – 476 Washington Avenue – CHMK, LLC, Chris Kyriakis – release the entire bond balance in the amount of \$2,500.00 with the recommendation of the Planning & Zoning Commission. Mr. Doheny seconded the motion.

Vote: Freda – Yes, Doheny – Yes, Buemi – Yes

Miss Buemi motioned for the release and Mr. Doheny seconded the motion of the following bond: 352 State Street – Apt Foundation – release the entire bond balance in the amount of \$55,000.00 with the recommendation of the Planning & Zoning Commission.

Vote: Freda – Yes, Doheny – Yes, Buemi – Yes

Miss Buemi moved for the reduction and Mr. Doheny seconded the motion of the following bond: #P14-40 – 476 Washington Avenue – CHMK, LLC, Chris Kyriakis – reduce the current bond balance of \$27,500.00 by \$22,500.00 retaining a balance of \$5,000.00 with the recommendation of the Planning & Zoning Commission.

Vote: Freda – Yes, Doheny – Yes, Buemi – Yes

Mr. Doheny moved and Miss Buemi seconded the approval of the following property tax refunds:

- Allison, Richard – 12 Crestview Drive, North Haven, CT 06473, in the amount of \$10.88.
- Amanat, Abbas or Sanjabi Maryam – 325 Mansfield Road, North Haven, CT 06473, in the amount of \$136.24.
- Cab East LLC – Ford Credit PO Box 67000 Department 231601, Detroit, MI 48267-2316, in the amount of \$46.54, and in the amount of \$200.92, and in the amount of \$170.42, and in the amount of \$313.60, and in the amount of \$218.42, and in the amount of \$96.10, and in the amount of \$82.64.
- Fusaris, Joseph or Helen – 148 South Avenue, North Haven, CT 06473, in the amount of \$16.18.
- Grey, Mark – 1061 Hartford Turnpike, North Haven, CT 06473, in the amount of \$19.85.
- Notarino, Ann – 130 Cloudland Road, North Haven, CT 06473, in the amount of \$14.56

- Schwartz, Debra – 3 Independence Lane, North Haven, CT 06473, in the amount of \$145.33.
- VW Credit Leasing LTD – 1401 Franklin Blvd, Libertyville, IL 60048, in the amount of \$352.74, and in the amount of \$419.70, and in the amount of \$319.44, and in the amount of \$129.40.
- Wan, Bo Kwan – 28 Monroe Street, North Haven, CT 06473, in the amount of \$10.30

Vote: Freda – Yes, Doheny – Yes, Buemi – Yes

Mr. Freda stated that the next meeting of the Board of Selectmen is scheduled for Thursday, September 3, 2015 at 7:00 p.m. in the community room of the North Haven Memorial Library, 17 Elm Street, North Haven, CT.

Mr. Freda opened the meeting to public comment.

Mr. Gary Amato, Pool Road, asked in regards to Mr. Freda's Overview, if there was a specific distance a Five Guys Restaurant would have to be from Dairy Queen. Mr. Freda explained that there is a geographical distance, but he is not privy to the exact distance specified in Dairy Queen's contract. Mr. Amato then asked if Kristine Carling, the Finance Director for the Board of Education, was a CPA. Mr. Freda said he was certain she was, but would confirm it. Mr. Amato then further asked in regards to Miss Buemi's item regarding the procedure of the chain in command in the Public Works Department, what experience Mr. Freda or Mr. Swinkoski had with engineering to best suit them as supervisors over Mr. Palma. Mr. Freda explained that Mr. Palma provides him with recommendations regarding various projects in the field; this pairs well with Mr. Freda's five years of experience of meeting residents' needs and calls pertaining to streets and roads. Following some discussion, Mr. Doheny pointed out the Mr. Freda has the ability to confer and seek the advice of Town employees to solve problems; such is the role of those in management positions. Mr. Amato then asked Mr. Doheny if he had asked Mr. Freda about the ongoing speculated personnel matters which have continuously been brought up in Public Comment during the past Board of Selectmen meetings. Mr. Doheny stated that he did not, nor does he plan to. Following further discussion regarding the chain in command, Mr. Amato read a quote from *The Courier* regarding the funding for the Middle School Project.

Mr. John Heeran, Debra Lane, wished to address Mr. Sonazzaro's comments relative to the agenda. He stated that a Town cannot just have one firehouse. He stated that in his experience as a volunteer firefighter, the locations of firehouses are determined based upon the need of good response times.

Ms. Irene Salman, Drazen Drive, asked for an update on Tractor Supply. Mr. Freda explained that the project fell through. She then asked for an update on the Rustic Oak property. Mr. Freda explained that the seller had reduced the

selling price of the property, after which Town Fair Tire has expressed interest in purchasing the property. Mr. Freda stated that this will be discussed at the next Planning & Zoning meeting.

Ms. Salman then asked about the Special Board of Selectmen meeting from June 25, 2015 regarding the performance contract with Johnson Controls. Mr. Freda explained that this agreement could save the Town millions of dollars over the next seventeen years based upon the Town's energy savings. Mr. Freda explained that the town does not pay for these updated capital infrastructure improvements, Johnson Controls will install them, to be financed by the Bank of America. These projects will be funded from the savings provided by the improvements to modern, energy efficient equipment.

Miss Buemi then shared that she sort of regrets her vote in favor of the energy performance resolution with Johnson Controls. Miss Buemi asked if the contract included a promissory note. Mr. Donofrio stated that although he could not recall if the contract included a promissory note, there was an agreement between the Town, Johnson Controls, and Bank of America, which provided for Bank of America to make payments to Johnson Controls to fund the cost of the initial improvements. Mr. Donofrio further explained that promissory notes are necessary for loans, whereas this is a financing agreement. Moreover, Mr. Donofrio maintained that the agreement serves no risk to the Town: in the event that the savings generated do not cover a payment, Johnson Controls has the financial obligation to cover the cost, not the Town. Following more discussion, Mr. Freda, Mr. Doheny, and Mr. Donofrio each expressed that the Town is at no risk in this agreement.

Mr. Amato questioned why the Board of Selectmen did not enter Executive Session as stated in the agenda. Mr. Freda explained that there was no need to enter Executive Session; the item had been included in the agenda in the event that the Board needed to entertain Executive Session, which it did not. Mr. Amato then questioned why the Middle School Update was not on the agenda. Mr. Freda explained that the purpose of the updates for the Board of Selectmen was in response to the recommendation of the Middle School Committee to not tape the meetings. Now that the Town is taping the meetings, the updates are not necessary.

Mr. Johns stated on behalf of the Middle School Building Committee that not much had occurred since the last update. They are currently in the process of finalizing the cost information. Mr. Johns shared that this process has ultimately been a success; and they are currently working on rebidding some packages. Mr. Donofrio also reiterated that the project is currently in a good position.

Mr. Heeran wanted to thank Mr. Amato for initiating the taping of the Middle School Committee meetings.

Mr. Bob Burns, Kings Highway, wished to share his monthly update regarding his concerns with the chain of command within the Public Works Department. He stated that he is waiting for a response from the Commission on Human Rights and Opportunities for an FOI request regarding a complaint from a former or current employee of the Public Works Department Streets and Roads Division against the Town. Mr. Burns stated he will share the contents of his FOI request should he receive it.

Mr. Freda asked for additional public comment, hearing none, Mr. Doheny motioned to adjourn with a second from Miss Buemi at 8:47 pm.

Vote: Freda- Yes, Doheny- Yes, Buemi – Yes