

**MINUTES OF THE REGULAR MONTHLY MEETING OF THE TOWN OF FAIRFIELD
MAY 23, 2011**

The Regular Monthly Meeting of the Town of Fairfield was held on Monday, May 23, 2011, at Osborn Hill Elementary School, Fairfield, Connecticut.

The meeting was called to order at 8:00 P.M. by Moderator Jeff Steele.

PRESENT: 36 ABSENT: 14 VACANCY: 0

PRESENT: Becker, Herley, Richmond, Ambrose, Jones, Steele, Varian, Bateson, Conley, Ference, McCullough, DeMartino, Palmer, Garskof, McAleese, Smey, Stamler, Brogan, DeSanctis, Dyer, Marmion, Vahey, Hochberg, Hoffkins, Llewellyn, Schwartz, Braun, McCarthy, Dillon, Millington, Mirabile, Cafferelli, Farnen, Mears, Rubino, Way

ABSENT: Challinor, Sundman, Stewart, Santalesa, Hug, R. Parker, S. Parker, Gall, Lynch, Harrison, Hoffmann, Takami, Felner, McGinty

ITEM NO. 1 ON CALL: PLEDGE OF ALLEGIANCE AND A MOMENT OF SILENCE

The Moderator introduced Reflections art contest winners Jamie Mercado, April Cook and Natalie Steele to lead the Body in the Pledge of Allegiance and Moment of Silence. He asked those present to keep in their thoughts the victims of the recent tornadoes in Missouri.

The Moderator congratulated Town Clerk Betsy Browne on being elected Fairfield County Vice President of the Connecticut Town Clerks Association.

ITEM NO. 2 ON CALL: TO CONSIDER AND ACT UPON THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 25, 2011, AND THE ANNUAL BUDGET MEETING HELD ON MAY 2, 2011 AND MAY 3, 2011

Upon motion made, duly seconded and carried unanimously, the minutes of the previous meetings were approved as distributed.

ITEM NO. 3 ON CALL: REPORT FROM THE AFFORDABLE HOUSING COMMITTEE

The report from the Affordable Housing Committee was distributed with the Call.

MOTION: James Millington, District 9, moved to take items 5 and 6 out of order, duly seconded and carried unanimously.

ITEM NO. 5 ON CALL: RESOLVED, THAT IN ACCORDANCE WITH A REQUEST FROM THE DIRECTOR OF COMMUNITY AND ECONOMIC DEVELOPMENT, APPLICATIONS RECEIVED UNDER THE NEIGHBORHOOD ASSISTANCE ACT (NAA) PROGRAM BE, AND HEREBY ARE, APPROVED, AND FURTHER RESOLVED, THAT THE DIRECTOR OF COMMUNITY AND ECONOMIC DEVELOPMENT BE, AND HEREBY IS, AUTHORIZED TO SERVE AS MUNICIPAL LIAISON AND AS OVERSEER OF IMPLEMENTATION OF THE PROGRAM

The Moderator moved this item as distributed with the Call, duly seconded.

**See Committee Reports Attached Hereto

VOTE: The NAA Program was approved by unanimous voice vote.

ITEM NO. 6 ON CALL: RESOLVED, THAT IN ACCORDANCE WITH A REQUEST FROM THE DIRECTOR OF COMMUNITY AND ECONOMIC DEVELOPMENT, A PY-37 (OCTOBER 1, 2011 - SEPTEMBER 30, 2012) COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION IN AN AMOUNT TO BE FINALIZED BY HUD, BE, AND HEREBY IS, APPROVED, AND FURTHER RESOLVED, THAT THE FIRST SELECTMAN BE, AND HEREBY IS, AUTHORIZED TO EXECUTE DOCUMENTS NECESSARY TO FACILITATE THE TOWN'S PARTICIPATION IN SAID PROGRAM

The Moderator moved this item as distributed with the Call, duly seconded.

**See Committee Reports Attached Hereto

Cristin McCarthy Vahey, District 6, noted that one of the included projects is for sidewalk repair and she asked where that is to be done.

Mark Barnhard, Director of Community and Economic Development, said that according to the Town Engineer, sidewalk improvements would take place in the Black Rock Turnpike area, Jennings Road, Tunxis Hill Road, Old Stratfield Road, Candlewood Road, among other streets.

VOTE: The resolution to approve the Community Development Block Grant Application was approved by unanimous voice vote.

ITEM NO. 4 ON CALL: RESOLVED, THAT THE BOND RESOLUTION ENTITLED, "A RESOLUTION APPROPRIATING \$350,000 FOR THE COSTS OF TWO SCHOOL PROJECTS AND AUTHORIZING THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION," CONSISTING OF FOUR PAGES, BE, AND HEREBY IS, APPROVED

MOTION: Nick Mirabile, District 9, moved to divide the item, duly seconded and carried unanimously.

Ed Bateson, District 3, moved to approve \$250,000 for the Tomlinson Middle School project, duly seconded.

**See Committee Reports Attached Hereto

Bill Llewellyn, District 7, said that his committee had asked for a breakdown of costs and received one page with round numbers. He said he cannot support this item without having the details.

Sheila Marmion, District 6, asked for clarification about the safety issues and doors that do not close.

Facilities Director Tom Cullen explained that the fire doors are placed such that when they close, they can hold smoke and fire from spreading. The doors are old and do not close all the way so they will not be effective.

Peter Ambrose, District 2, asked what portion of the \$250,000 is for the doors and if there is a more complete breakdown.

Mr. Cullen said that the door quote was approximately \$28,000. He does not have the numbers separate from the lead abatement protection. There are proposals for painting, sanding and chipping work.

Mr. Ambrose said he prefers to see the hard numbers prior to approving this project.

Patti Dyer, District 6, said that the information flow has been discombobulated and that a process needs to be put in place. Some committees got the breakdown of numbers, some did not. We need to have a more streamlined process.

Board of Education Chairman John Mitola agreed that the process needs to be reformed. He said a list of estimates was obtained but for any more detailed figures we would need to hire an architect.

Cristin McCarthy Vahey, District 6, said that we need to sit together and hash out these conversations. She asked which doors in the building are being replaced.

Mr. Cullen described the location of the faulty fire doors.

Mr. Millington said that he shares the concerns about the flawed process. He said that Mr. Cullen had said that the safety issue stems from the façade and that it could fall and injure someone, but TFC member Jim Gallagher said that was not an issue. There are competing forces and Mr. Cullen had said this project had the full support of the TFC but Mr. Gallagher indicated it did not. Asking for a cost breakdown is not an outrageous request.

Nick Mirabile, District 9, agreed with Mr. Millington. He said the committees received two different presentations and that the TFC and BOE need to agree before coming before the RTM. We do not need an architect to get a little more detail.

Tom McCarthy, District 8, said that we need a brief summary as to how the requested figures were arrived at.

Josh Garskof, District 5, suggested that this item be tabled rather than voted down. He said everyone seems to agree that the work needs to be done.

Mr. Cullen said that the only information missing is the contractor's proposal for lead abatement.

MOTION: Mr. Garskof moved to postpone this item until the next regularly scheduled meeting, duly seconded.

First Selectman Sherri Steeneck said that the TFC should put together a 14 point proposal.

MOTION: Ann Stamler, District 5, moved to amend the motion to postpone by adding a request that the TFC draw up an appropriate list of questions to be responded to by Mr. Cullen and his department, justifying this project and what it would cost, duly seconded.

Ms. Dyer said she agrees with the proposal, but the TFC is very busy and she said we do not know if they would be able to have that ready for the next meeting. She asked if the Board of Ed feels that they could work with such a proposal.

Superintendent of Schools David Title said that the TFC is overwhelmed with the amount of work they have before them now, including Ludlowe, Warde and McKinley. He said if there are specific questions directed to the Board of Ed we would be able to get them in a timely fashion.

Ms. Dyer suggested that the amendment to the motion to postpone be withdrawn, and asked that the TFC put together a list of questions for each project that comes before the Body.

TFC Chairman Al Kelly said that the TFC supports this project. The only information missing is for lead abatement. He said that Mr. Cullen provided substantial information, and the lead abatement risk is about \$20,000 to \$30,000.

WITHDRAWAL OF MOTION: Ms. Stamler withdrew the motion to amend the motion to postpone this item.

Ms. Vahey spoke in favor of postponing this item and said that the RTM needs to very clearly state what it wants from the Board of Education.

Mr. Millington said that we have been told there is no new information forthcoming and he does not see the point in postponing this item.

Mary McCullough, District 3, said that we asked for a detailed list at the April meeting. The detailed cost breakdown is all we need.

Hal Schwartz, District 7, asked if we can get the breakdown of numbers for the June meeting to which Mr. Cullen replied yes.

VOTE: The motion to postpone this item until the June meeting was approved with 32 in favor, 4 opposed (Bateson, Hoffkins, Braun, Millington).

Ed Bateson, District 3, moved to approve \$100,000 for the Holland Hill Elementary School project, duly seconded.

**See Committee Reports Attached Hereto

Ms. Vahey asked if the tank is to be above- or in-ground and if it is to be 1,000 gallons or smaller.

TFC Chairman Al Kelly said that the size of the tank is not in the purview of the TFC. The TFC has asked if a 1,000 gallon tank will fit in the boiler room but was told no, but a 275 to 330 gallon tank will. Mill Hill has a 275 to 330 gallon tank in its boiler room.

Facilities Manager Dave Fryer said that he had met with the fire marshal today and they toured the boiler room. It is very small and there is no room for a tank. There are restrictions about how close to the walls a combustible item can be placed. The fire marshal recommended that it not be placed in the boiler room.

Ms. Vahey asked how many gallons of oil it would take to heat the school for a day in an emergency.

Mr. Fryer said it would take 40 to 60 gallons on a very cold day, but he is more concerned that if there is a gas line break, it would take more than a day to heat a building.

Mr. Bateson asked if there is a more definitive answer from the fire marshal and asked if he would sign off on it.

Mr. Fryer said he cannot speak for the fire marshal but that he recommended it not be placed in the basement.

Mr. Bateson said without an absolute reply from the fire marshal the matter is still open.

Selectman Jim Walsh said that we are going to see a number of tank replacements over the next ten years and a policy should be implemented about the size and location of tanks. We have been told that gas will be cheaper in the long run.

Mr. Kelly said that Johnson Controls developed a dual fuel system so that the option is there and we can switch back and forth between gas and oil to save money. The TFC can revisit the issue. Regardless, the old tank has to come out, whether a smaller tank goes in the building or a larger tank is placed outside.

Mr. Walsh asked how long it would take the TFC to conduct a study as to how tanks get replaced moving forward.

Mr. Kelly said that it would take a few months and a proposal could be brought forward around September. He said they could come up with a format to offer options.

Mr. Walsh asked if the tank could be placed above ground, outside.

Mr. Kelly said he did not visit the location but that personally, he is not in favor of above-ground tanks outside.

Mr. Walsh asked if the project would be done over the summer if this resolution was postponed for a month.

Mr. Cullen said that this is a summer project and that the State can fine us if it found out that the tank is still in the ground after 30 years. There are unknowns in the project also, such as soil testing after the old tank is removed.

Mr. Walsh suggested that a small tank be installed inside, then the TFC can give a report later as to how to move forward with other tank replacement projects.

Ms. Dyer said that she is not certain it is in the purview of the RTM to decide what size tank is to be used, and the fire marshal did not hand down an official recommendation. The motion should be amended to state that when the tank is taken out, the abatement is taken care of and a new tank should not be installed until a professional opinion is received.

Mr. Kelly said that the cost of the new tank is not at issue here because a new tank costs around \$8,000. The cost is with removal of the tank, the hole it leaves behind, and abatement.

Mr. Mirabile said that we must have a breakdown. Ms. Dyer's motion is logical but we cannot vote on this item without proper information. We are not sure as to whether it is in our purview to dictate the size and location of the tank. He said he cannot support the resolution without definitive information.

Mr. Millington said there are lingering questions and we need to know what we are voting on and how much it is going to cost. Right now the 1,000 underground tank is before us. He said it cannot take two months to remove the tank and install a new one.

Mr. Cullen said that it is the bidding process that takes the most time. This is not a two week residential project. Soil testing must be conducted.

MOTION: Mr. Millington moved to postpone this item until the next regularly scheduled meeting, duly seconded.

Ms. Stamler said she shares the sense of frustration, and the level of discomfort in voting whether to have an above- or under-ground tank. We must trust our department heads and Mr. Cullen to handle this. She supports the motion to postpone.

Mr. Llewellyn said that the Board of Ed needs to bring the options to the RTM and let us choose.

Carolyn Richmond, District 1, said that less than ten percent of the cost is for the tank and that the most important factor in this project is removing the old tank. Bids should be put out for the 1000, 250 and 330 gallon tanks. She said to not postpone this item, but approve it and trust the Board to look at the other questions.

Board of Education Vice Chairman Pam Iacono said that if this is postponed tonight we cannot do the project this summer. There are 13 more tanks in town that need to come out and the RTM needs to decide what they want the Board of Ed to do.

Mr. Kelly said he supports this project. If this resolution is postponed there is no new information forthcoming. We need to move forward.

VOTE: The motion to postpone this item failed with a vote of 15 in favor, 21 opposed.

IN FAVOR: Becker, Herley, Ambrose, Jones, Steele, Conley, Ference, DeMartino, Llewellyn, Braun, McCarthy, Millington, Mirabile, Farnen, Way

OPPOSED: Richmond, Varian, Bateson, McCullough, Palmer, Garskof, McAleese, Smey, Stamler, Brogan, DeSanctis, Dyer, Marmion, Vahey, Hochberg, Hoffkins, Schwartz, Dillon, Cafferelli, Mears, Rubino

Mr. Bateson said he wants the tank out and no more tanks should be placed underground. If there is a way to approve this tonight, we should do it tonight.

Mr. Llewellyn asked if there is a breakdown for installing the tank.

Mr. Cullen said the only cost breakdown he has is for fiberglass versus steel tanks and the difference is not great.

Mr. Llewellyn asked if it will cost \$38,000 to fill the hole and add topsoil.

Mr. Cullen said that figure includes removing fuel lines and soil testing also.

MOTION: Mr. Garskof moved to amend the resolution by changing Exhibit A of the Bond Resolution from "Remove and Replace Fuel Tank," to "Remove Fuel Tank," duly seconded.

Mr. Millington said he cannot support the motion because it would not include replacement of the tank and the cost remains the same. We have to vote for this item or against it, but we have to make a decision.

Mr. Garskof said it will cost what it costs for removal and abatement and when it is put out to bid, the balance would not get bonded.

Ms. Richmond spoke in favor of the motion, as the amount contained in the bonding resolution is an “up to” amount.

Ms. Stamler asked if it could include replacement or only to remove and fill in the hole.

Mr. Garskof said his intent is to not replace the tank, but to remove, fill and remediate.

Ms. Vahey spoke in favor of the motion and said the work needs to be done.

Mr. Bateson spoke in favor of the motion and said the tank need to be out of the ground.

Ms. Dyer said she is concerned that we not send a message that we are not against underground tanks.

Selectman Walsh asked if the Board of Ed could take different size and location options and come back to the Board of Selectmen with them for approval.

Dr. Title said that several options could be bid within the \$100,000, the bids will be brought to the Board of Selectmen and they will do whatever the Board of Selectmen says to do.

Selectman Walsh urged the Body to approve the resolution and let it come back to the Board of Selectmen for the decision to be made on the options.

Tom McCarthy, District 8, said he would accept Selectman Walsh’s recommendation.

WITHDRAWAL OF MOTION: Mr. Garskof said that based on the stated “gentlemen’s agreement,” he would withdraw the motion to amend the resolution by removing the words, “and replace.”

Dr. Title stated he would bid options for replacement and provide the results to the Board of Selectmen.

MOTION: Mr. McCarthy moved to amend the resolution by adding, after “Remove and Replace Fuel Tank,” the following: “the size and location of which would be determined by the Board of Selectmen,” duly seconded.

Ms. Dyer called the motion unnecessary. The Superintendent of Schools stood up and said he will abide by the decision of the Board of Selectmen. She asked that the maker withdraw the motion because there needs to be a level of trust.

Mr. McCarthy said that he is in favor of trust but this issue is not clear. If it were, it would have been voted on an hour ago. With the amendment, we know what we are voting for.

Ms. Iacono urged approval of the project.

VOTE: The motion to amend the item as stated above was approved with 31 in favor, 5 opposed (McCullough, McAleese, Dyer, Vahey, Schwartz).

VOTE: The motion to approve the bond resolution in the amount of \$100,000 for the Holland Hill School boiler project, as amended, was approved with 32 in favor, 4 opposed (McCullough, Vahey, McAleese, Schwartz).

ITEM NO. 7 ON CALL: RESOLVED, THAT A CERTAIN CONTRACT NEGOTIATED BY AND BETWEEN THE TOWN OF FAIRFIELD AND LOCAL UNION 1303-366 OF COUNCIL 4, AFSCME, AFL-CIO FAIRFIELD

PROFESSIONAL AND TECHNICAL EMPLOYEES ASSOCIATION
(MID-MANAGEMENT ASSOCIATION) CONCERNING
CONDITIONS OF EMPLOYMENT FOR THE PERIOD ENDING
JUNE 30, 2010 BE, AND HEREBY IS, AMENDED, IN THE
MANNER DESCRIBED IN THE SUMMARY OF TENTATIVE
AGREEMENT SO AS TO MAKE THE CONTRACT EFFECTIVE
THROUGH JUNE 30, 2013, AND TO INCORPORATE CERTAIN
OTHER CHANGES REGARDING WAGES, HOURS, ETC

The Moderator moved this item as distributed with the Call, duly seconded.

**See Committee Reports Attached Hereto

Ed Bateson, District 3, said that the Town Hall Employees Association contract that was recently approved by the RTM included the change from the pension plan to the 401(A) plan starting in 2011, but this contract stipulates it begin in 2012. It is difficult to build parity in contracts, but this information should be used to go back to the bargaining units. As far as the new clause in Section 10, which refers to a single employee, it is a complicated matter which should be a decision for Human Resources or the Employees Retirement Board to make. He does not believe that is under the RTM's purview and for those reasons he does not support this contract.

MOTION: Peter Ambrose, District 2, moved to suspend the rules in order to convene past 11:00 P.M., duly seconded and carried unanimously.

David Becker, District 1, also referred to Section 10 and stated that we should not be dealing with a specific employee in the bargaining unit.

Joe Palmer, District 4, said that the baseline contribution of ten percent is too low. If Town employees contributed twenty five percent of their medical it would save the Town \$4 million next year.

Human Resources Director Mary Carroll-Mirylees pointed out that the Charter states that the RTM votes on all changes to the pension plans. The Employees Retirement Board does not have the authorization to make changes to the pension plan.

MOTION: Joe DeMartino, District 4, moved the question, duly seconded, and carried with 24 in favor, 12 opposed.

IN FAVOR: Herley, Ambrose, Jones, Steele, Varian, Bateson, Conley, Ference, DeMartino, Palmer, Smey, Brogan, DeSanctis, Hoffkins, Llewellyn, Braun, McCarthy, Dillon, Millington, Mirabile, Cafferelli, Farnen, Rubino, Way

OPPOSED: Becker, Richmond, McCullough, Garskof, McAleese, Stamler, Dyer, Marmion, Vahey, Hochberg, Schwartz, Mears

VOTE: The resolution to approve the Mid-Managers' Union contract failed with 6 in favor, 27 opposed and 3 abstentions.

IN FAVOR: Ambrose, Varian, Conley, Smey, Hoffkins, Dillon

OPPOSED: Becker, Herley, Richmond, Steele, Bateson, Ference, McCullough, DeMartino, Palmer, Garskof, McAleese, Stamler, Brogan, DeSanctis, Dyer, Marmion, Vahey, Llewellyn, Braun, McCarthy, Millington, Mirabile, Cafferelli, Farnen, Mears, Rubino, Way

ABSTAINED: Jones, Hochberg, Schwartz

ITEM NO. 8 ON CALL: TO CONSIDER AND ACT UPON AMENDMENTS TO THE RECYCLING AND SOLID WASTE ORDINANCE, CHAPTER 84, SECTION 14 OF THE CODE OF THE TOWN OF FAIRFIELD

The Moderator moved this item as distributed with the Call, duly seconded.

**See Committee Reports Attached Hereto

Michael Mears, District 10, spoke against the proposed amendment. He called it excessive regulation over other mandated recycling laws.

Jamie Millington, District 9, thanked the Body for their thoughtful questions and comments. Recycling has been happening over the past twenty or so years, and if it was the intention of gas station owners to recycle, they would be doing it already.

Cristin McCarthy Vahey, District 6, said that this issue should be addressed at a broader level.

Carolyn Richmond, District 10, said that businesses could use recycling as a marketing ability. However, the issue is to where the recycling containers should be placed, and she will not support the ordinance.

David Becker, District 1, agreed that this needs to be looked at more broadly but this is a specific area which needs to be looked at. The state statutes are too vague and this is not overreaching. Gas stations had two decades to do something and they have not done anything. This is a very simple thing that will drastically increase recycling in this town.

Kathy Braun, District 8, said that she wholeheartedly supports this ordinance and that recycling is important, and noted that only one station owner responded to the request for input.

VOTE: The amendments to the Recycling and Solid Waste Ordinance were approved with 29 in favor, 7 opposed (Richmond, Conley, Stamler, Dyer, Vahey, Schwartz, Mears).

ITEM NO. 9 ON CALL: REFERRAL OF ORDINANCE TO L & A

The Moderator reported that the Municipal Union Labor Contract Amendment ordinance will appear on the Call of the next regularly scheduled meeting for discussion.

ADJOURNMENT

There being no further business and upon motion made, duly seconded and carried unanimously, the meeting was adjourned at 11:15 P.M.

Respectfully submitted,

Elizabeth P. Browne
Town Clerk

Recorded by: Ann Roche