

**Open Meeting Minutes of  
OCTOBER 19, 2009**

**SELECTMEN'S MEETING  
Monday, October 19, 2009 7 p.m.  
H. BERNARD MONAHAN MEMORIAL ROOM  
TOWN HALL, 242 UNION STREET  
ROCKLAND, MASSACHUSETTS**

**PLEDGE OF ALLEGIANCE  
MOS for Mr. Eldridge Buffum**

**1. OPEN FORUM**

~Jared Valanzola spoke to request volunteers to join the Charter Study Committee. The Committee can have 7 members, and is currently down 4 members. There is a large amount of work still to do. He also wished to thank everyone who has already met with the committee.

~Julie Shields spoke regarding the successful Support Our Schools event recently held to support the School debt exclusion question. She thanked everyone involved. She urged attendance at the informational meeting on Tuesday October 20, 2009. She also reminded everyone of the election to be held on November 14, 2009.

~Jim Paul spoke regarding the Rockland Historical Commission and G.A.R. The next presentation will be featuring letters from Massachusetts Civil War combatants on November 12 at 7:30. The G.A.R. Hall will be open during the annual Stroll. Also mentioned the military show.

- 2. Open Meeting Minutes of October 8, 2009**  
Motion by Ms. O'Brien to approve, Mr. Zupkofska questioned the minutes. Motion to table the minutes by Mr. Chaffee, 2<sup>nd</sup> by Mr. Simpson, minutes tabled 4-0-1 (Johnson abstained).
- 3. Open Meeting Minutes of October 5, 2009**  
Motion by Ms. O'Brien to approve, Mr. Zupkofska wanted some to make changes to the minutes and said he would submit his recommended changes. Motion to table by Mr. Zupkofska, 2<sup>nd</sup> by Mr. Chaffee, minutes tabled 3-1-1(O'Brien opposed, Johnson abstained).

4. **Open Meeting Minutes of September 21, 2009**  
**Motion to approve by Ms. O'Brien, 2<sup>nd</sup> by Mr. Johnson, passed 3-1-1 (Zupkofska opposed, Simpson abstained).**

## **UNFINISHED BUSINESS**

5. **Rent Control Vacancy**  
**Mr. Chiocca announced vacancy on the Rent Control Board due to the resignation of Anne MacDonald. The BOS acknowledged her resignation with regret and requested volunteers to apply for the opening.**
6. **No Item**
7. **Special Town Meeting Warrant**

*The BOS discussed each warrant article and accepted each article with its emergency reason as printed below. Motions and votes are recorded at end of the warrant.*

## **SPECIAL TOWN MEETING NOVEMBER 3, 2009 LIST OF ARTICLES**

### **ARTICLE 1**

Will the Town vote to transfer the sum of Eighteen thousand dollars \$18,000 from Unemployment Insurance Account # 0191351-515070 to Town Meeting Elections Personnel Account # 0116251-511019 in the amount of Fifteen thousand dollars \$15,000 and to Town Meeting Elections Services Account # 0116253-539900 in the amount of Three thousand \$3,000 or take any action thereto?

EMERGENCY: The state requires two unexpected special elections along with the local need for a debt exclusion question required to move ahead with the School Building project.

TOWN CLERK

Finance Committee Recommendations at Town Meeting

### **ARTICLE 2**

Will the town vote to transfer Twenty-five thousand \$25,000 from Parks Department Account #0165051-511001 to Assessor Appraiser Salary Account # 0114151-511001 or take any action thereto?

EMERGENCY: The Assessor Appraiser vacated his position with short notice requiring funding to replace the position during the buyout period. The position is critical to quantifying New Growth and property valuation necessary for setting the Tax Rate.

BOARD OF ASSESSORS

Finance Committee Recommendations at Town Meeting

**ARTICLE 3**

Will the town vote to transfer from Parks Department Account #0165051-511001 to Landfill Monitoring Account # 0112251-529714 the sum of \$30,000 for the purposes of completing State ordered work in connection with the landfill or take any action thereto.

EMERGENCY: This DEP requires this work to be performed or it will be a violation which may result in fines.

BOARD OF SELECTMEN

Finance Committee Recommendations at Town Meeting

**ARTICLE 4**

Will the Town vote to transfer the sum of Twelve thousand five hundred dollars \$12,500 from Parks Department Account #0165051-511001 to Accounting Clerical Salary Account # 0113551-511003 for the purposes of increasing clerical hours or take any action thereto?

EMERGENCY: Need to fulfill legal reporting requirements after reduction of staff in two office department head's positions and a change of another department head.

TOWN ACCOUNTANT

Finance Committee Recommendations at Town Meeting

**ARTICLE 5**

Will the Town vote to transfer the sum of Ninety-five hundred \$9,500 from Unemployment Encumbrance Account #0191357-578099 to Computer Services Account #0113553-530400 for the purposes of purchasing and installing new computer equipment and related software or take any action thereto?

EMERGENCY: Town Hall's computer server is 6 years old, the service contract coverage cannot be renewed and the server is experiencing errors in backups and having speed issues. This money will replace and upgrade the new server and related networking equipment.

TOWN ACCOUNTANT

Finance Committee Recommendations at Town Meeting

## **ARTICLE 6**

To see if the Town will vote to amend Article 13 of the 2007 Annual Town Meeting to read "To see if the Town will vote to authorize the Board of Health, which has custody and declared the property surplus, to transfer to the Selectmen, who will offer for sale **or lease** through sealed bid, the property located at the corner of VFW Drive and Pleasant Street, formerly used as the Town of Rockland sanitary landfill, or take any other action relative thereto.

EMERGENCY: The Town is under a DEP mandate to remediate issues associated with this landfill. Selling or issuing a long term lease for commercial use of the property may help to decrease or eliminate the Town's liability for closure. The Town has been approached by a party expressing interest in the property, and, given the potential exposure for remediation, along with the lack of funding for such a project, it is critical that the Town move forward.

### **BOARD OF HEALTH**

Finance Committee Recommendations at Town Meeting

## **ARTICLE 7.**

To see if the town will vote to approve the Tax Increment Financing Plan and Agreement for a major expansion of a manufacturing facility of Air Xchange Incorporated on at a site located 85 Longwater Drive, Rockland, Massachusetts, located on a parcel of land shown as Lot 15 on "Plan of Land off Longwater Drive, Rockland, March 20, 1974, Loring H. Jacobs and Associates, Inc." and recorded in the Plymouth County Registry of Deeds in Book 4169, Page587. (Part of Assessors Map 5, Block 12, Lot 0-R as part of a Tax Increment Financing Zone which presents exceptional opportunities for increased economic development. Said Agreement shall be considered in return for the expansion of said business in the Town and a subsequent increase in the assessed value of the property based on improvements of said property by said business. Said Agreement will provide for an exemption of property taxes or a percentage thereof based on said growth increment in assessed valuation of the property according to the requirements of M.G.L. Chapter 23A, §3E; Chapter 40, §59, and Chapter 59, §5, Clause 51; pursuant to the provisions of 751 CMR 11.04 (1)(b) and 402 CMR 2.18. A copy of said Agreement is on file with the Town Clerk, or take any other action relative thereto.

EMERGENCY – The owner of this firm is attempting to obtain state and federal tax subsidies for a major expansion of his business. In order to be eligible for these subsidies, there must be participation by the Town in the form of a Tax Increment Financing Plan, or discount in property taxes assessed for the enhanced value of the property. This financing opportunity may not be available in six months when Annual Town Meeting is convened.

### **BOARD OF SELECTMEN**

Finance Committee Recommendations at Town Meeting

## **ARTICLE 8.**

To see if the Town will vote to appropriate, borrow or transfer from available funds, a sum of money to be expended under the direction of the School Building Committee for the renovation of Rockland High School, 52 MacKinlay Way, Rockland Massachusetts, and the construction of a new John W. Rogers Middle School, 100 Taunton Avenue, which school facilities shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, and for which the Town may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"). The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town. Any grant that the Town may receive from the MSBA for the Project shall not exceed the lesser of (1) sixty four and twenty six one hundredths of one percent (64.26%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount as determined by the MSBA. Or take any other action relative thereto.

EMERGENCY – This project involves major renovation of Rockland High School and construction of a new John W. Rogers Middle School. The project is intended to be out to bid within two months, with a construction schedule intended to allow re-opening in Fall, 2012. Delay of a vote for this project would adversely impact the construction schedule. The Town also seeks to take advantage of the current favorable bidding climate in order to keep the cost of the project as low as possible.

## **SCHOOL BUILDING COMMITTEE**

Finance Committee Recommendations at Town Meeting

**ARTICLE 9.** Will the Town vote to accept the provisions of Chapter 39: Section 23D of the Massachusetts General Laws:

*Chapter 39: Section 23D. Adjudicatory hearings; attendance by municipal board, committee and commission members; voting disqualification*

*Section 23D. (a) Notwithstanding any general or special law to the contrary, upon municipal acceptance of this section for 1 or more types of adjudicatory hearings, a member of any municipal board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing. Nothing in this section shall change, replace, negate or otherwise supersede applicable quorum requirements.*

*(b) By ordinance or by-law, a city or town may adopt minimum additional requirements for attendance at scheduled board, committee, and commission hearings under this section.*

Or take any other action relative thereto

EMERGENCY – Under the current law, no member of municipal board may participate in the decision making process if they miss even a portion of an evidentiary hearing. This requirement has led to difficulty maintaining a legal quorum, and in at least one case, contributed to litigation against the Town. This statute will minimize the risk that our legal obligations are not met due to the lack of a quorum for a given board.

BOARD OF SELECTMEN

Finance Committee Recommendations at Town Meeting

**Article 1 Motion to approve by Mr. Zupkofska, 2<sup>nd</sup> by Mr. Chaffee with approval of the emergency reason passed by 5-0 vote.**

**Article 2 Motion to approve by Mr. Chaffee, 2<sup>nd</sup> by Ms. O'Brien with approval of the emergency reason passed by 5-0 vote.**

**Article 3 Motion to approve by Mr. Chaffee, 2<sup>nd</sup> by Mr. Chaffee with approval of the emergency reason passed by 5-0 vote.**

**Article 4 Motion to approve by Mr. Chaffee, 2<sup>nd</sup> by Mr. Johnson with approval of the emergency reason passed by 4-1(Zupkofska) vote.**

**Article 5 Motion to approve by Mr. Zupkofska, 2<sup>nd</sup> by Mr. Chaffee with approval of the emergency reason passed by 5-0 vote.**

**Article 6 Motion to approve by Mr. Chaffee, 2<sup>nd</sup> by Ms. O'Brien with approval of the emergency reason passed by 5-0 vote.**

**Article 7 Motion to approve by Mr. Zupkofska, 2<sup>nd</sup> by Ms. O'Brien with approval of the emergency reason passed by 5-0 vote.**

**Article 8 Motion to approve by Ms. O'Brien, 2<sup>nd</sup> by Mr. Chaffee with approval of the emergency reason passed by 4-1(Zupkofska) vote.**

**Article 9 Motion to approve by Mr. Zupkofska, 2<sup>nd</sup> by Ms. O'Brien with approval of the emergency reason passed by 5-0 vote.**

**8. No Item**

**9. Walkable Community Event**

Cathy Buckley of the MAPC will be in Rockland on Thursday morning at 8 am to discuss ways the Town of Rockland can make and the Union Street more pedestrian friendly and position itself as a destination. The walkable event is an open event, the public, area business owners and departments are welcome to attend. Discussion took place regarding incorporation of the Bike Rack program and CDBG sidewalk grants into this program. Ms. O'Brien discussed plans for the event and encouraged participation to help with all aspects of the downtown plans.

**10. Mr. McGee**

Chairman Simpson indicated he had received an email from Mr. McGee seeking to withdraw from appearing at this meeting. The Chairman suggested returning Mr. McGee's documents to him as he is withdrawing his application. Mr. Chiocca indicated he will have Mrs. Stewart mail the documents back.

**NEW BUSINESS**

**11. No Item**

**12. Public Documents Order regarding Kevin McGee request**

Mr. Zupkofska announced he had filed a "DISCLOSURE OF APPEARANCE OF CONFLICT OF INTEREST" with the Town Clerk and felt he could discuss the issue and remain unbiased.

Mr. Chiocca spoke to the BOS regarding recent letter from the Secretary of State's Office and article in the Ledger/Enterprise dealing with Mr. McGee request for all of Executive Assistant Mary Stewart's outgoing emails. Mr. Chiocca reported the news article was inaccurate reflecting Mr. McGee had only asked for "pertinent" emails when in fact he had asked for all emails. Mr. Chiocca reported he had followed the instructions of the Secretary of State's Office and provided Mr. McGee with an estimate of the cost of getting him a "good faith reasonable estimate". The BOS office may have to be closed for a period of time in order to comply with the request.

Mr. Chiocca reported to the BOS he would have a new policy ready by the next BOS meeting.

**13. GASB 45-Presentation by Parker Elmore of Primoris Benefit Advisors, Inc.**

*Chairman Simpson stepped down from the Board as the issue affects his son and wife.*

Mr. Elmore made a presentation regarding Rockland's implementation of GASB 45. His presentation outlined future costs and financial obligations governments incur when they provide post employment benefits other than pensions.

**14. No Item**

**15. License Renewals**

**Thrift/Consignment**

1. Rose's Thrift Shop – 145 Union Street

### **Taxi Licenses**

1. Robbins Livery – 115 Hartsuff Street

### **Class II Licenses**

1. Trust Petroleum, Inc. – 104 Market Street
2. WCS Automotive – 1 Bishop Lane
3. Advance Auto Center – 409 VFW Drive
4. Advanced Transmission & Clutch (Supreme) – 511 Plain Street
5. Supreme Muffler & Brake, Inc. – 218 VFW Drive
6. Lou's Auto Body, Inc. – 577 Market Street

### **Common Victualler Licenses**

1. Butterfield's Restaurant – 372 Market Street
2. Trueman's Catering – 440 Union Street
3. Oriental Express – 8 West Water Street

### **Entertainment Licenses**

1. Butterfield's Restaurant – 372 Market Street

**Motion by Mr. Zupkofska, 2<sup>nd</sup> by Ms. O'Brien to renew all licenses passed 5-0.**

### **30. TOWN ADMINISTRATOR'S REPORT**

- ~Agylia's Restaurant is now fully open and serving
- ~Bike Racks have been ordered and will be incorporated into the Union St. sidewalk plan.
- ~Julie Shields requested announcement of the New School Project informational meeting.
- ~Thanked Vet's Agent Tony Materna for participating in the Boston program to advise veteran's of legal rights and services.
- ~Reminded residents of upcoming hazardous waste collection day in Hanover.
- ~Requested volunteers for the Annual Holiday Stroll on Nov. 28<sup>th</sup>.

### **SELECTMAN'S COMMENTS**

*Chairman Simpson read into the record-Comments and opinions expressed by individual members do not necessarily reflect the views of all of the BOS and are the opinions and comments of only the individual member. He also asked members not be interrupted.*

### **Deb O'Brien**

~Enjoyed the recent SOS fundraiser for the School project question and reminded residents to come to the informational meeting for the project on Tuesday.

### **Michael Johnson**

- ~Explained he missed the 10/5 and 10/8 meetings because he was out of state for work.
- ~Enjoyed the SOS fundraiser and encouraged people to attend informational meeting.
- ~Asked Mr. McGee to turn his flag around now that he has withdrawn his request to appear before the BOS for his license.

**Michael Zupkofska**

- ~Asked if Mr. McGee was invited to the meeting prior to him being discussed.
- ~Discussed PLA and the School project.
- ~Discussed Public Records process and requests.
- ~Discussed legal budget.
- ~Discussed possibly being arrested or removed from a meeting.

**Mr. Chaffee**

- ~Discussed informational meeting, invited residents.
- ~Mentioned Public Documents Requests.
- ~Reminded Mr. Zupkofska of his speaking about Mr. Corvi without prior invitation.
- ~Discussed the BOS signature authority form.
- ~Enjoyed the SOS fundraiser.

**Mr. Simpson**

- ~Discussed Public Records and requests.
- ~Discussed requests for copies of grants and pointed out that individuals must are not entitled to records and copies. It has been previously pointed out that copies for individual Board members must be by vote of the Board.
- ~Discussed current legal budget.
- ~Reminded Mr. Zupkofska there is a threshold of acceptable behavior.
- ~Thanked everyone who attended the SOS fundraiser.
- ~Encouraged everyone to attend the informational meeting.
- ~Discussed PLA and project manager

Motioned by Mr. Chaffee, 2<sup>nd</sup> by Ms. O'Brien to Adjourn passed 5-0

Meeting ended at 9:10pm

**NO EXECUTIVE SESSION**

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**Allan R. Chiocca**  
Town Administrator

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**Lawrence J. Chaffee, Vice Chairman**  
Board of Selectmen

**Note: Open Meetings are recorded by local cable WRPS and are considered the official record of the BOS meetings**

