

Board of Selectmen
May 3, 2010

THESE MINUTES ARE SUBJECT TO APPROVAL BY THE BOARD OF SELECTMEN

The **Board of Selectmen** held a regular meeting on Monday, May 3, 2010 in the Council Chambers, 3 Primrose Street, Newtown, CT. First Selectman Llodra called the meeting to order at 7:30 p.m.

PRESENT: First Selectman E. Patricia Llodra, Selectman William F.L. Rodgers and William F. Furrier.

ALSO PRESENT: Finance Director Robert Tait, Public Works Director Fred Hurley, Deputy Director of Land Use Rob Sibley, seven members of the public and two members of the press.

VOTER COMMENTS: none.

ACCEPTANCE OF MINUTES: Selectman Rodgers moved to accept the minutes of the Public Hearing of April 5, 2010. Selectman Furrier seconded. All in favor. Selectman Furrier moved to accept the minutes of the Board of Selectmen regular meeting of April 5, 2010. Selectman Rodgers seconded. First Selectman Llodra noted the correction of the minutes of March 15, 2010 in the minutes of April 5, 2010 should read *There is no financial obligation to the town until a lease proposal goes through a hearing and is approved by the Board of Selectmen as specified by ordinance and regulation.* The minutes of April 5, 2010 were unanimously approved as corrected.

COMMUNICATIONS: First Selectman Llodra noted there will be two items added to Unfinished Business: Legislative Council Ad Hoc Facilities Committee request to the Selectmen and the Board of Education to take responsibility and take on the tasks identified by the subcommittee. Lastly is the resolution regarding E-Waste collection and recycling.

UNFINISHED BUSINESS:

Discussion and possible action:

1. **Senior Center Fees:** item will be continued to be carried as a reminder that this is work that has to be done. Not discussed.
2. **Legislative Council Ad Hoc Facilities Committee request to the BOS & BOE** item will continued to be carried.
3. **Fairfield Hills Master Plan Review Committee:** Today is the deadline for submitting letters of interest. Four additional applicants are Nancy Roznicki, George Schmidt, Bruce Walczak and Mark Alexander. Appointments will be made at the May 17 meeting.

Mr. Rodgers moved to add a driveway bond extension request to the agenda as item twelve and renumber executive session as number thirteen. Selectman Furrier seconded.

First Selectman noted that two items will be discussed under executive session, pending litigation and legal matters related to tax collection.

NEW BUSINESS:

Discussion and possible action:

1. **E-Waste collection and Recycling Agreement:** Mr. Hurley explained that the agreement is between the town and HRRRA (Housatonic Resource Recovery Association). HRRRA has an agreement with the vendor WeRecycle to provide E recycling services for all towns in the region. The agreement allows the town to provide recycling of televisions, computer monitors,

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and other electronic devices to the residents at essentially no charge starting July 1. The charge for municipal or Board of Education electronic device disposal is 12 cents per pound. HRRRA vetted the vendors. E-Waste recycling will be available every day the landfill is open. The environmental benefit is to get the chemicals out of the burn centers. Mr. Rodgers moved to accept the E-Waste Collection and Recycling Agreement as specified in the document (Att. A) and to authorize the First Selectman to sign the agreement on behalf of the town. Selectman Furrier seconded. All in favor.

2. Technology Park update: Bob Rau, Chairman of the Economic Development Commission present the board with an update of the technology park. There have been meetings with Land Use, Planning and Zoning and the Conservation Commission regarding the latest proposal; there have been no objections. No action was taken.

3. Appointments: Selectman Rodgers moved the appointment of Andrea Haas to the Lake Lillinonah Authority for a term to expire on January 6, 2013. Selectman Furrier seconded. First Selectman Llodra noted she had explained that as a member of the LLA Ms. Haas's company would not be able to bid for or offer services to the Authority. The motion unanimously passed.

4. Authorize First Selectman to sign contract with Advantage Realty to act as broker for Fairfield Hills: Selectman Rodgers moved that the town, acting by the First Selectman enter into an agreement titled Exclusive Right to Lease Agreement dated Wednesday, April 28, 2010 for a period commencing 4 May 2010 and ending 30 April 2011. Selectman Furrier seconded. Selectman Furrier stated he stands in opposition of moving forward with any leases that will be approved by only the Board of Selectman. Quoting Chapter 7, Section 90 of the Charter Mr. Furrier said a lease has to be approved by a town meeting. Entering into leases is an act of legislation, committing future funds that haven't been approved by the tax payers. It is a violation of the Connecticut Constitution, Article 2, Separation of Powers. Selectman Rodgers stated this was deliberately in violation of the provisions the Charter, that is why the Fairfield Hills Authority was created. Authorities exist in the statutes for practical reasons; the tradeoff is we will vary from the normal scheme of control but only for a limited purpose. We went to state statute, got a special enabling law, to get around a restriction within the Charter. This question is for the Master Plan Review Committee to examine. Mr. Rodgers stated he is a big believer in separating powers and this agreement can be entered into as an option maximizer to see if anything develops and have a discussion in the context of a pending lease proposal. First Selectman Llodra stated that the town has four authorities which have capacities that are not shared by other boards or commissions. The Authority language qualifies this action as being appropriate and legitimate. If the agreement generates any lease activity it will come back to a public hearing and the Board of Selectmen; no action would be taken outside of those levels of checks and control. Selectman Furrier recognized the power of authorities but it is about who approves the lease saying the town should have a right to approve it, not two people on the Board of Selectmen. The motion passed 2-1 (YES: Rodgers, Llodra), (NO: Furrier).

5. The U.S. Mayors Climate Protection Agreement: This item will be carried forward.

6. Resolution: Selectman Furrier moved the resolution that E. Patricia Llodra, First Selectman be empowered to execute and deliver in the name and on behalf of this municipality, a contract with the Connecticut State Library for a Historic Documents Preservation Grant. Selectman Rodgers seconded. This is taking advantage of state monies on the table. All in favor.

7. Municipal option to abate taxes on open space in exchange for transfer of development rights to municipality: A tax abatement program was presented by Mr. Sibley and Ms. Gaudet- Wilson, a Commissioner on the Conservation Commission, as a way to preserve open space. The program takes the cost that would be received from taxes and puts it toward the purchase of open space; basically using funds generated by the parcel in order to

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purchase the land over time. The period is between five and twenty-five years, the taxes are reduced in that time, in the end the town owns the development rights and perpetuity. (Att. B) Applications would be reviewed by the Conservation Commission, the tax assessor, the finance director, the Board of Finance and any other municipal office or commission the agency deems appropriate. Selectman Rodgers warned that use of this will create a new level of concern, purchase vs. abatement. There will have to be careful development of policy. Selectman Furrier would like the approval processes to be well thought through and agreeable to everyone. First Selectman Llodra explained that this would require an ordinance and would be sent to the Legislative Council. Selectman Furrier moved to refer the municipal option to abate taxes on open space in exchange for transfer of development rights to municipality to the Legislative Council with a positive referral. Selectman Rodgers seconded. All in favor.

8. Conservation restriction for lots on Queen Street: There are three lots on Queen Street that are town owned but are not in the open space registry. First Selectman Llodra said that she would like to amend some of the language in the original document: *item number 5, controlled hunting shall be allowed for the sole purpose of controlling deer, turkey and game populations and pest reduction and thinning programs shall be put into place in order to protect contiguous properties and to maintain a sustainable wildlife habitat on the property and surrounding areas.* Mrs. Llodra is uncomfortable identifying that practice when that practice is not in place. The second amendment is to change the final paragraph to read *only be modified or amended or released by the Board of Selectmen* (not the Conservation Commission) saying if it is strictly under the control of the Conservation Commission the town option is limited to consider the land as an asset that could be used for another purpose; the scope of control should belong with the Board of Selectmen. Mr. Sibley explained the Conservation Commission is asking the board to formally set a restriction on the deed to recognize the parcels do set aside a significant scenic view shed for the town and the open space should be recognized as such. Selectman Furrier said this is a disposition and the board doesn't have the power to do it. Mr. Sibley reported that it the opinion of the towns council that this is not a disposition of property; the property, since already owned by the town, is not receiving a right associated or giving a right of way, would not be considered a disposition. Mrs. Llodra confirmed there were many conversations with the town attorney on this subject. Selectman Rodgers stated that justification had to be made at the time of the purchase and that the lots would remain open space. He thinks that deleting #5 precludes the town's right to re-impose it. It is inappropriate in relation to the lots on Queen Street but that does not represent any decision on the merits on controlled hunting in a broader context. Mr. Rodgers recommended adding *and enforced* to the language at the end of the document. Selectman Rodgers moved to authorize, for recording on the land records, the version of the conservation restriction that has been referred to as the amended version by the First Selectman, deleting item #5 regarding controlled hunting and reserves to the Board of Selectmen the right to modify or amend, with the addition of the words "and enforced" in the third to last line between the words "administered" and "by" with the express caveat that the town attorney has to approve the addition. The motion includes authorizing the First Selectman to sign the conservation restriction. Selectman Furrier seconded. Mr. Furrier stated it is reasonably deducted that the inherent value of the property in its real form has not been altered. Mrs. Llodra said the town should not forego options that might be considered by future generations. Mr. Furrier agreed. The motion unanimously passed.

9. Vendor Permits: First Selectman Llodra presented changes to the current vending permits saying there is an increase in the number of people interested in vending and compared to other towns Newtown doesn't ask for very much information. Permit fees are not charged to veterans. This item will be discussed further at the next meeting.

10. Tax Refunds No. 14: Selectman Furrier moved the May tax refund #14 in the amount of \$9,589.13. Selectman Rodgers seconded. All in favor.

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11. Set the date, time and place for the budget referendum: First Selectman Llodra explained that the date of the next referendum could not be set until the council filed the modified budget with the Town Clerk. A special meeting to set the date and time of the next referendum is to be held on Thursday, May 6 at 7:30 a.m.

12. Driveway Bond: Selectman Rodgers moved to extend the driveway bond for six months Monteiro, 36 Taunton Lake Road, M6, B15, L48 to expire October 31, 2010. Selectman Furrier seconded. First Selectman Llodra noted the work has just started now due to uncontrollable circumstances. The code allows for six months extensions and an additional extension request can be made at that time. Motion unanimously passed.

ANNOUNCEMENTS: First Selectman Llodra noted that a Board of Ethics appointment will be acted upon at the May 17 meeting, as well as acting on the appointments to the Fairfield Hills Master Review Committee. A resignation was received from Bob Geckle, leaving a vacant position on the Fairfield Hills Authority to be filled by a republican or unaffiliated voter. Recently appointed Chris Berchem has resigned from the Sustainable Energy Commission, leaving a vacant position to be filled by an unaffiliated voter.

VOTER COMMENT: **Barbara O'Connor, 36 Little Brook Lane,** asked for clarification on the municipal action to abate taxes. Mrs. Llodra explained that the abatement proposal is for a period of five to twenty five years. The proportional reduction in taxes is for whatever length of time the particular agreement is for. The development rights to the municipality is forever.

13. Executive Session: Selectman Furrier moved to enter executive session for the purpose of discussing pending litigation, Newtown Youth Academy vs. Town of Newtown and legal matters involving tax collection. Nobody was invited to attend. Selectman Rodgers seconded. All in favor. Executive session was entered at 9:27p.m. and returned to regular session at 9:35p.m. with the following motions:

Selectman Furrier moved to accept the terms outline in the memo of Monday, May 3, 2010 from Attorney Austin Kim of Cohen & Wolf, to Newtown Tax Collector Carol Mahoney related to tax issues in case number CV 08-4008666. Selectman Rodger seconded. All in favor.

Selectman Rodgers moved that the town defend itself in the legal action Newtown Youth Academy vs. the Town of Newtown. Selectman Furrier seconded. All in favor.

ADJOURNMENT: Having no further business, the Board of Selectmen adjourned their regular meeting at 9:35p.m.

Respectfully Submitted,


Susan Marcinek, Clerk

Att. A: E-Waste agreement

Att. B: Municipal option to abate taxes on open space in exchange for transfer of development rights to municipality

EXHIBIT A**FORM OF TOWN ADOPTION AGREEMENT****E-Waste Collection and Recycling Agreement
Municipal Adoption Agreement**

THIS ADOPTION AGREEMENT (the "Adoption Agreement") is entered into as of May 3, 2010, by The Town of Newtown, (the "Town") a municipality existing under the laws of the State of Connecticut and a Member of Housatonic Resources Recovery Authority ("HRRA"), a regional resources recovery authority organized and existing under the laws of the State of Connecticut.

WHEREAS, WeRecycle! LLC, a Delaware limited liability company ("WRL"), with offices at 500 South Broad Street, Meriden, CT 06450 and HRRA have entered into an E-Waste Collection Agreement dated as of ~~February 5~~^{5/3} 2010 (the "E-Waste Collection Agreement") pursuant to which WRL will provide certain e-waste recycling Services on behalf of HRRA member municipalities that agree to adopt that E-Waste Collection and Recycling Agreement;

WHEREAS, the Town desires that WRL provide for the Town the Services set forth in the E-Waste Collection and Recycling Agreement; and

WHEREAS, the Town desires to adopt the provisions of the E-Waste Collection and Recycling Agreement and become bound by the terms and conditions thereof;

NOW, THEREFORE, in consideration of the covenants, mutual promises, and agreements set forth herein and in the E-Waste Collection and Recycling Agreement, the Town agrees as follows:

1. Town hereby adopts the E-Waste Collection and Recycling Agreement and agrees to be bound by the terms and conditions thereof.
2. Town represents that it is authorized and empowered to enter into this Adoption Agreement and the E-Waste Collection and Recycling Agreement, and that the terms and provisions of such Adoption Agreement and E-Waste Collection and Recycling Agreement are binding on it and do not conflict with any agreement, regulation, law or order to which it is a party or by which it is bound.

Sec. 12-129r. Municipal option to abate taxes on open space in exchange for transfer of development rights to municipality. (a) As used in this section:

(1) "Municipality" means any city, town, borough, district or association with municipal powers; and

(2) "Open space land" means any area of land, including forest land, the preservation or restriction of the use of which would (A) maintain and enhance the conservation of natural or scenic resources, (B) protect natural streams or water supply, (C) promote conservation of soils, wetlands, beaches or tidal marshes, (D) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces, (E) preserve historic sites, or (F) promote orderly urban or suburban development.

(b) Any municipality may, by ordinance adopted by its legislative body, establish a program under which property taxes may be abated in exchange for the transfer to the municipality of development rights, conservation easements, rights-of-way or any combination thereof, to open space land. Such ordinance shall include, but not be limited to, provisions for requirements for application for the abatement, which shall include a certified appraisal of the property proposed for abatement both with and without development rights.

(c) The abatement may not exceed the market value of the open space land, may be transferable to any other taxable property in the municipality owned by the applicant and may exist for a period of time to be determined by the legislative body of the municipality.

(b) (c) (d) (e) (f)

History: P.A. 06-128 effective October 1, 2006, and applicable to assessment years commencing on or after that date