

**SHERMAN BOARD OF SELECTMEN
SPECIAL MEETING MINUTES
March 29, 2012**

Present: Clay Cope - First Selectman, Chris Jellen – Selectman, Andrea O'Connor – Selectman, Jeff Sienkiewicz -Town Attorney

Call to Order: First Selectman Cope calls the meeting to order at 6:30 PM.

Agenda: To discuss an amendment to the library Grant Agreement

Jeff Sienkiewicz notes that the Treasurer (Eric Holub) raised a question regarding what date would be used for the town reimbursing the library for expenses incurred, as there was a potential inconsistency in the document. Eric does not want to have a problem when the first requisition comes. Jeff Sienkiewicz thinks the June 9, 2007 date in the agreement is too stale, and Selectman O'Connor agrees completely. The original grant agreement very clearly says can't reimburse the association for expenses incurred prior to the date of the grant agreement. Paragraph 5 of the agreement essentially says the Town pays on a reimbursement basis. Jeff Sienkiewicz says the Board now needs to decide when they want reimbursement to commence. Jeff Sienkiewicz notes the language in Exhibit "A" makes some representations as to where the money is being used. The body of the agreement calls for reimbursement starting at a later date. Jeff Sienkiewicz has now changed the language in Exhibit "A" to say that basically none of the expenses for which they are seeking reimbursement were prior to the date of the Town's execution of the grant agreement – but he is not sure if this is what the Town wants. First Selectman Cope asks Selectman O'Connor for her advice. She notes that at the time the referendum was approved, it was expected that construction would begin immediately, but some time passed. She thinks it is appropriate to fix the document, but she is unsure if the Town has the final design. She thinks it is important to correct the date, but she is open as to what the date should be. Jeff Sienkiewicz talks about how typical municipal projects advance (hiring engineer, figuring preliminary costs, Town Meeting, asking for appropriations, spending money for final designs, going out to bid). In a typical setting, the appropriation that had been established covers final design and the architect/engineer preparing and processing the bid. Jeff Sienkiewicz understands that the library had to redesign the project and scale back, but the question is when does the Town want to be reimbursing. Selectman O'Connor believes that the architect did the design, and engineering came after the fact – lots of give and take there. Jeff Sienkiewicz says the library is required to maintain a contingency for the contingencies. Selectman O'Connor says the way the grant was written has been turned around, her understanding is we begin payment of things when the project gets going, when the library breaks ground. First Selectman Cope notes that the library can't break ground until July 1st. Jeff Sienkiewicz says he always thought 3.3 million was the construction costs, and he has the impression from First Selectman Cope that figure might include land acquisition costs too, and that maybe the cost of the building is only 2.5 million.

Selectman O'Connor understands from Millie Loeb's report last week that the library has a construction manager's estimate of the cost, which is within 4 % of target. She inquires if the construction manager is going to go out for bid again like he did the first time. First Selectman Cope says no, not in the same scope of work, and they don't have the figures yet. Selectman O'Connor says First Selectman Cope has brought to her attention that the Town may need to back off plan B, which is where the Town is right now. She wonders at what point does the Town say this is different again, and where is the line for when payment starts. She agrees with Jeff Sienkiewicz that the Town does not want something brought into arbitration. Jeff Sienkiewicz notes a potential problem is that when they (the library) submit requisitions, they can say they can get costs from back before 2007. He notes that under paragraph 5, once the agreement is signed, any capital costs incurred after that date that are not paid, the library can bring to the Town with the first requisition, even if they are 6 months old. Jeff Sienkiewicz recommends changing the 6/9/07 date in Exhibit "A" to the date of signing the grant agreement, because that would make Exhibit "A" consistent with paragraph 4.

First Selectman Cope estimates the library has already spent nearly half a million dollars. Jeff Sienkiewicz wonders if that is part of the 3.3 million. Jeff Sienkiewicz proceeds on an assumption that the cost of construction would be 2.6 or 2.7 million from this date forward, if they have already spent a half million, they would have to spend another 1.1 million, and the Town would reimburse ½ of that \$550,000 – once they reach that point, they get 50% of that from the state, and they then have 1.6 million left to spend, and they get 25% of that from the Town – that is \$400,000. So that is \$950,000, Jeff Sienkiewicz says they have their 1 million. First Selectman Cope inquires as to what date they should use. Jeff Sienkiewicz advises using the date of signing of the agreement, to make the Exhibit "A" consistent with the rest of the agreement. Selectman O'Connor mentions that Chris Lent (library) raised questions about possible inconsistencies in the promissory note/mortgage deed. Jeff Sienkiewicz says it is a 6% reimbursement; the foreclosure figure is 10% because that is what everyone pays if it forecloses. First Selectman Cope says he told Chris Lent this is the agreement that the Board agreed to put back to the library, as now drafted. Selectman O'Connor moves to reconsider the approval of the proposed grant agreement for the library expansion that was approved on the 22nd and to amend the document to substitute the Exhibit "A" as proposed with the change of June 9, 2007 to the date of the Town's execution of the grant agreement, Selectman Jellen seconds, all in favor. Jeff Sienkiewicz will write the letter, and hopefully that will be out by tomorrow.

Adjournment: Selectman O'Connor moves to adjourn the March 29, 2012 Special Board of Selectmen's Meeting at 6:58 p.m., and the motion is carried unanimously.

Respectfully Submitted,
Laura J. Pettinato, BOS Clerk

Clay Cope

Chris Jellen

Andrea O'Connor