

**Board of Selectman
Meeting Minutes
November 29, 2012**

Attendees:

Absent:

First Selectman Clay Cope
Chris Jellen, Selectman

Andrea O'Connor, Selectman

I. Call to Order

First Selectman Clay Cope called the meeting to order at 7:00 p.m. at Mallory Town Hall.

II. Pledge of Allegiance

III. Approval of Minutes

- a. Board of Selectmen Regular Meeting, October 25, 2012: Selectman Jellen moves to approve the minutes, First Selectman Cope seconds, all in favor.
- b. Board of Selectmen Special Meeting, November 13, 2012: Selectman Jellen moves to approve, First Selectman Cope seconds, all in favor.

IV. Correspondence

First Selectman Clay Cope relays the following items of correspondence:

- A. The minutes from the regular meeting of the Candlewood Lake Authority.
- B. A document from the Town of Pawling regarding the adoption of a health insurance law.

V. Public Comment

Janet Hopkins wants to reserve the opportunity to speak on section F of the New Business, if it is appropriate. First Selectman Cope says she may do so.

VI. Old Business

A. Progress report on Town Projects

1. Emergency Services Facility Project: First Selectman Cope notes that 2.5 days were spent buttoning up the potable water system, and they will be back next week to finish up the piping. Then the system will be will chlorinated (First Selectman Cope reached out to the Health Department about this) and then the inspection will start. The hope

was to have water to the playhouse for Cinderella. The heat is running upstairs, they still don't have control systems finished, but DepCo will be here Monday next week to button this up.

2. Sherman Library expansion project: First Selectman Cope reads a report from Building Committee Chairman Mason Lord, noting that the project is moving along on schedule, despite some challenges that arose due to Hurricane Sandy. The concrete footing is scheduled to be poured, the barn has been stripped of siding (siding stored to be sorted through and reinstalled), the barn has been moved and will be moved back after the foundation is poured.

3. Spring Lake Road paving project: First Selectman Cope says after coming to terms with NJR and being able to secure the requested warranty on Spring Lake Road, we'll now hold off doing the corrective work. Regarding the curbing and cleaning of drain systems there are still rip-rap on the drain catch basins. Next spring the asphalt plants reopen, and we will get to that in March/April.

4. Fox Run detention basin project: First Selectman Cope was concerned that there was no contract from DEEP. He heard from Chuck Lee today, the contract was mailed, and should be to the Town tomorrow, so the Fox Run basin is on schedule.

B. Public Safety Communications follow up: First Selectman Cope notes that David Hopkins mentioned they will report on this in December.

C. Housing Commission Update: First Selectman Cope reached out to Steve Roffwarg, who let him know that Paul Hiro should have the survey work done come December, and then Steve will come before the B.O.S. in December with findings/recommendations.

D. Town Computer Policy/Investigation follow up: First Selectman Cope reached out to the Town labor attorney on this, and they are working to come up with a proposed policy for consideration soon. They are awaiting the completion of the investigation to make sure that all files and issues identified in the investigation are addressed in the new proposed policy. The B.O.S. will be privy to this policy, and it will be presented at either the December Special Meeting, or at the December 20th meeting.

E. Cell phone policy follow up: First Selectman Cope would like to table this until December, as he has not made the progress he wanted here. No other municipalities that he has been checking into seem to have an equitable cell phone policy, and we may be a pioneer in this area.

VII. New Business

A. Tax Refunds: Selectman Jellen moves to approve motor vehicle tax refunds in the amount of \$1,001.45, First Selectman Cope seconds, all in favor.

B. Capitalization Threshold discussion and possible action: First Selectman Cope reads an email from Town Treasurer Eric Holub, who would like to increase the current threshold of \$500 to \$2,500. The auditor had recommended \$5,000. Eric felt the \$2,500 was a good compromise position, and that the \$5,000 is too high. He would like to put this on the agenda for the next B.O.S. meeting. First Selectman Cope responded to Eric's mail, agreeing the threshold should be raised to \$2,500 and putting the item on tonight's agenda. Eric comments that the auditor's view was really a lot of effort to depreciate assets that other towns might remove from their books. This is really tracking, to make sure that when an asset is disposed, the loop is closed, and it is taken off the schedule. Selectman Jellen moves to increase the Capitalization Threshold to \$2,500, First Selectman Cope seconds, all in favor.

C. Hurricane Sandy: First Selectman Cope notes that at the monthly HVECO meeting there was quite a bit of discussion about CL&P being able to do things better. First Selectman Cope notes that a laundry list of ways that CL&P can improve is being created. This is one of the items on the agenda for the breakfast meeting on December 6th, and First Selectman Cope will have more to report on this at the December meeting. He also notes that Business Associate Liz LaVia sent him an email regarding moving Public Works overtime and the Selectman's Assistant time associated with Sandy to the same line (#1-01-05-02245) to move it from the budget line to capture the expense for FEMA reimbursement. This was passed by Eric. The expense is moved to a disaster line, and if we get reimbursed from FEMA there is a better line of sight between what we were reimbursed and what was charged. First Selectman Cope moves that the Public Works overtime and Selectman's Assistant line be captured under the disaster relief line #1-01-05-00245, Selectman Jellen seconds, all in favor.

D. Park and Rec Reappointments: First Selectman Cope reads an email from Fran Frattini, noting that both she and William Butts would like to continue to serve when their terms expire. Selectman Jellen moves to postpone this item until the next meeting when all B.O.S. members are present, First Selectman Cope seconds, all in favor of tabling this item until the December meeting.

E. To consider termination of the contract with Merit Associates, Inc. for the construction of the Emergency Services Facility and such other action relating thereto as may be appropriate: First Selectman Cope moves to put item G on the agenda before item E, as Executive session is anticipated for item E, Selectman Jellen seconds, all in favor.

Town Attorney Jeff Sienkiewicz notes we have received from the architect a letter indicating that he feels there is cause to terminate the contract. He has had some conversations with the surety about contract termination. Jeff called the attorney for

Merit, and indicated that the Town was considering terminating the contract. Jeff drafted the following resolution:

"Based upon the certification of the project architect, Dean Petrucelli of Silver/Petrucelli & Associates Inc., I move that the Town of Sherman terminate the contract of Merit Associates, Inc. for the Sherman Firehouse Additions and Renovations upon seven (7) days notice as provided in Section 14.2.2 General Conditions A201 for the following reasons:

In that Merit Associates, Inc. has breached of its contractual obligations to the Town of Sherman in the following respects:

1. It has failed to provide a viable schedule to complete the project as provided in Section 3.10.1, 3.10.2 & 3.10.3 of the General Conditions A201;
2. It has repeatedly refused or failed to supply enough properly skilled workers for the duration of the project as provided in Section 14.2.1 (1) of the General conditions A201;
3. It has failed to consistently make payments to Sub Contractors for materials or labor in accordance with the respective agreement between the Contractor and the Sub Contractors as provided in Section 14.2.1 (2) of the General conditions A201;
4. It has failed to carry out the work in accordance with the contract documents as provided in Section 14.2.1 (5) of the Supplemental General Conditions A201

I further move that the Town give Merit Associates, Inc. and the performance bond surety notice of such termination, and that it proceed to exercise all of its rights under the contract and under the contract performance bond to secure completion of the contract work."

Jeff notes that he has been in communication with the surety, and the surety apparently indicated they would like to get the job done as much as we would. The attorney dealing with the matter for the surety realizes this is a public safety building. Jeff's sense is that the surety is going to perhaps complete the contract. He also notes that the contract has missed all the dates and is years overdue. First Selectman Cope notes that dates are always given, and there has been some progress, but the big question is whether they can bring it home by the end of the year. There are many small outstanding things to be done, and they just have not been finished. First Selectman Cope notes he was impressed with Charlie Groves from the surety company, as he got people in and got them to work. Jeff notes it is the contractor's job to oversee the work, and the surety has gone well beyond their obligations – including paying people in advance. Jeff would like to discuss in Executive Session some of the legal considerations he wants to bring to the Board's attention, before they pull the trigger. Town Treasurer Eric Holoub asks that the Board consider in Executive session the fact that the Town is sitting on money owed to Merit – if we give up that money, we lose

our financial leverage. Jeff notes that the big question is what the balance of the contract price is going to be – these are the types of nuances to discuss in Executive Session. First Selectman Cope invites both Eric Holub and Jeff Sienkiewicz to join the Executive Session. Barbara Ireland inquires if it is permissible for others to be invited to Executive Session, and Jeff Sienkiewicz advises that it is. First Selectman Cope moves for the Board to enter Executive Session at 7:55 p.m. The Board returns from Executive Session at 8:37 p.m., noting they have a suggested motion by the Town Attorney (typed above), and First Selectman Cope moves to adopt this verbiage stated above into the record, Selectman Jellen seconds, all in favor. Jeff will draft a letter tomorrow, and will send it out to Merit, the surety, and Merit's attorney.

F. Resolution to allow the First Selectman to enter into contract amendment/extension with the State of Ct Dept. of Social Services for Library Barn Community Room: First Selectman Cope moves for agenda item F to be addressed before agenda item E, as Town Attorney Jeff Sienkiewicz has not arrived at the meeting yet. This item pertains to the STEAP grant that was secured a few years ago. This is an extension, so that the Town does not lose out on the \$200,000 since there was a delay in the project. First Selectman Cope reads the resolution that would be required:

RESOLVED: that the First Selectman, Clay Cope, is empowered to enter into and amend contractual instruments in the name and on behalf of the Town of Sherman with the Department of Social Services of the State of Connecticut for a Neighborhood Facilities program, and to affix the corporate seal.

Janet Hopkins inquires if the library barn will be used for social services. First Selectman Cope says "no", it will always be a library program, not social services. However, the space could be used as a community room under the jurisdiction of the library. Barbara Ireland asks if STEAP administered Social Services grants and First Selectman Cope notes that this particular grant was, which is unusual. Selectman Jellen moves to allow First Selectman Cope to enter into contract amendment/extension with the State of CT Dept. of Social Services for Library Barn Community Room, First Selectman Cope seconds, all in favor

G. To authorize the Board of Selectmen to accept a gift of a motor vehicle from the Friends of the Senior Center and authorizing the disposal of the existing vehicle by trade or otherwise: First Selectman Cope gives some background information about issues that arose when budgeting for seniors, specifically the element of a vehicle, in light of the fact that the present van has difficulty navigating some of Sherman's roads. The Friends of the Senior Center would now like to purchase a vehicle for the Town, and they have a budget of approximately \$17,000. Jeff Sienkiewicz wrote a letter dated November 29th, which First Selectman Cope reads. The letter suggests how this whole process should be handled. The letter notes that the Town has power to accept gifts under the General Statutes, and includes a resolution of how to do so. However, the situation is a bit complicated, because the Town already has a vehicle, and the Town

may want to rid itself of the existing vehicle. Also, it wouldn't make sense to title the vehicle to the Friends, just to transfer title again. Jeff notes this is a convoluted process, because if the Friends just gave the \$17,000 to the town, it would have to go to competitive bidding.

Selectman Jellen moves: "That the B.O.S. accept a 2009 Subaru Forrester or similar vehicle to be purchased by the Friends of the Senior Center and donated at the time of purchase to the Town of Sherman for use for client transportation services provided by the Renaissance Senior Center and by Social Services. In connection with the acceptance of such vehicle, the Town of Sherman acting by the First Selectman or other appropriate official shall simultaneously transfer the existing Ford Taurus, currently used for such purposes, to the seller or dealer as a trade-in allowance on the donated vehicle, and further the Town of Sherman acting by the First Selectman or other appropriate official be authorized to cause the donated vehicle to be registered and insured in the name of the Town, and then dedicated for use for such client transportation services. Any nominal expenditure related to the transfer of titles or registrations shall be paid by the Friends of the Senior Center as part of the gift. The Cost of insurance, however, shall be paid by the Town from an appropriate account as determined by the Treasurer", First Selectman Cope seconds, all in favor

Jeff requests that when the gift is completed, the Town should send a letter with First Selectman's Cope signature, indicating that the gift was received and the value of gift, so that there is a record of the monetary consideration.

VIII. General Discussion: Items to be brought up by Selectmen for future agendas

Selectman Jellen would like to hear an update regarding restoration of computer files for Z.B.A . and P&Z. First Selectman Cope will be meeting with Barbara Ackerman, to see what is there, and he will provide an update. First Selectman Cope reiterates for the public that he can't discuss anything to do with this incident because it is now between the Town labor attorney and the Union attorney.

First Selectman Cope notes that no date has been set for the Special Meeting, although the 13th of December might be a possibility.

IX. Public Comment

Ernie Deck would like to see the Town institute a robo call system to provide citizens with storm information, as he couldn't find information about the storm on the Town website. First Selectman Cope mentions that this was considered during the budget process, and the Board chose to defer this. Ernie also asks what the next step will be with the contract termination. First Selectman Cope says Town Attorney Jeff Sienkiewicz will be sending a letter advising of the contract termination, and the surety will pick the

next contractor to step in and finish the project. Ernie also inquires if the lights in the lower lot of Town Hall are on timer. First Selectman Cope notes that an electrician is looking at the lights, they may possibly have been hit by lightning.

Joe Keaneally asks for clarification on who is investigating the computer records issue, and First Selectman Cope advises the investigation is by the Labor Attorney for the Town of Sherman, and is still in progress.

Jane Cone asks if the Town can borrow a back-up generator for Town Hall. First Selectman Cope says the Town did. The priority was for CL&P to restore power to the Town center first. The Town Hall did not need to be running, except for computers. Regarding computers, there was no internet to be able to update the website. First Selectman Cope notes that accessing computers remotely is something that is currently being worked on. Jane also asks if First Selectman Cope can say anything about the P&Z records being gone, and Selectman Cope again states that he is not permitted to comment on this issue, as per the advice of the Town Labor Attorney.

Tom Joyner notes that when power goes out, the Charter lights on the poles have 3 hours backup, and then internet is lost. The AT&T landlines go out after about 2 days. So even if a generator is in use, internet access is chancy. Tom has concerns about Timber Trails' 130 residences having brush picked up. In September 2011, Selectman O'Connor felt these residents deserved a "better shake" in terms of Town services. He is disappointed that the Town did not pick up storm brush from his area or private communities. This removal cost him \$600, whereas other taxpayers receive this service for free. He would like to know what Town plans are going forward for residents in private communities. First Selectman Cope says this issue will go on the agenda for the December meeting. Tom further notes that text messages and twitter are the best way for the Town to communicate with residents during an emergency, because they require marginal signals. Regarding the 10:00 lights out rule, he notes that there has always been a regulation about lights off at 10:00. He says businesses and the Town can apply for a waiver to this rule, which needs to be approved by the Town.

George Linkletter notes that since the Town collects Christmas trees from Town roads, perhaps the Town can collect trees from those who live on state highways.

Barbara Ireland mentions that the state of CT maintains a list of contractors with good reputations, and Merit is on that list. She feels a letter should be sent to the state about Sherman's situation with Merit, so that Merit's name is taken off that list.

Anne Chiramonte was disappointed not to see anything about the storm on the Town website. She came to Town Hall on Monday, to get water, and Town Hall was closed. She says it would have been nice if signs were on the door. First Selectman Cope says signs were all over the Town Hall, saying he was at the firehouse or at the school. Jill Finch points out that the power did not go out until Monday night, so there would not

have been anything at Town Hall when power was still on. Gary Albert says he opted to buy his water at the store.

Evan Von Ancken inquires as to the status of Spring Lake Road. First Selectman Cope advises that the paving will be repaired in March or April, and it will be a clean road with curbing.

Kate McConaghy notes that the Town should not expect to piggyback on the school's reverse 911 system, because of privacy issues involved with that.

Nancy Whitfield asks when the investigation regarding the computer files will be completed. First Selectman Cope explains again that there are two attorneys involved – the Town's labor attorney (John Shea) and the Union attorney, and they have not provided a timetable for completion of the investigation.

Carol Faure is distressed about the level of nastiness and harassment of the First Selectman. John O'Connor has sent letters all over Town about "deep, dark, sinister plots", and she received a copy of this letter. Carol does not believe there are any "deep, dark, sinister plots". Carol says Selectman O'Connor set up the entire computer system in this Town, and when she was First Selectman, there was one email address for the First Selectman, and everything went through Andrea first. The other two Selectman got copies of what was sent. However, now that she is no longer First Selectman, she wants her own email. She thinks that this was the problem with Selectman Jellen. It is a ridiculous thing for all the different emails for all three Selectmen. If a person wants private email, send it to your home, otherwise it goes to the First Selectman. She thinks it is too bad to spend thousands of dollars of taxpayers' money on lawyers for some unknown reason. Carol says she is a Democrat, she has worked her tail off for Democrats, and she is proud to be a Democrat. However, she says that this is really nasty stuff going on around Town, and the way that people speak to First Selectman Cope, an officer. Whether people like it or not, Clay Cope won and Andrea O'Connor lost.

Selectman Jellen notes that both he and First Selectman Cope have received complaints about the firehouse lights being on late. He thinks the Town should set an example by complying with the 10:00 p.m. time limit. We can't have our Zoning Officer holding others in violation of this rule if the Town itself violates.

X. Adjournment

Selectman Jellen moves to adjourn the Board of Selectmen Meeting at 9:11 PM, with First Selectman Cope seconding and all voting in favor.

Respectfully Submitted,
Laura Pettinato, Clerk

Clay Cope

Chris Jellen

Andrea O'Connor