

Public Safety Building Advisory Committee  
Minutes of June 13, 2011  
Town Building – Selectmen’s Meeting Room  
*DRAFT minutes subject to committee approval*

The meeting of the advisory committee was convened at 6:03 p.m. by Kevin Crowley. In attendance were members Doug Goddard, Brad Carver and Kevin Crowley, and *ex officio* members Facilities Director John Moynihan; and Town Administrator Fred Turkington. Also in attendance was Wayland Patch editor Brooklyn Lowery and Linda Segal. Ms. Segal advised that she was recording the meeting, so noted without objection from the committee.

Ms. Segal requested that the order of the agenda be changed to provide for the immediate election of a chair, given the statutory role of the chair in addressing Open Meeting Law complaints, posting of agendas and meeting notices, etc. Without objection, the committee moved to consider selection of a chair.

Mr. Goddard moved, seconded by Mr. Crowley, to elect Brad Carver as chair. YEA: Crowley, Goddard and Carver. NAY: none. ABSTAIN: none. ABSENT: none. 3-0.

Mr. Carver reviewed the Open Meeting Law complaint filed by Linda Segal on May 27, 2011. Ms. Segal was invited to comment on her complaint and participate in the discussion in an effort to develop a settlement. She explained that she attended in hopes of answering questions to clarify her three-page letter of complaint. Mr. Carver asked Ms. Segal if she intended to comply with the request from the town administrator to provide a copy of her audiotape of the HDC meeting held on April 28. She explained that the request should come from the chair on behalf of the committee. Mr. Carver asked members of the committee if they would like a copy of the audiotape. They confirmed the request. Ms. Segal agreed to provide it, noting limitations in her skills in reproduction, her willingness to do so without requesting reimbursement, and reminding the committee that she left the proceedings before that item had been completed, so the recording was an incomplete representation of the meeting. She asked the committee to in the future arrange for recording of the meeting. She noted the current meeting was not being recorded by the town or WayCAM.

Mr. Crowley stated that he did not believe the committee violated the OML because it did not deliberate during the public hearing before the HDC. Ms. Segal declined to comment further on her position that discussion that occurred constituted deliberation. Mr. Turkington commented that he reviewed the complaint with Town Counsel Mark Lanza (who could not attend this meeting), and noted that deliberation must occur on matters within the jurisdiction of the public body. The HDC has sole authority to impose conditions on the application for a certificate of appropriateness and any exchange between the bodies occurred during a duly notice meeting of the HDC and during the public hearing portion of the meeting which has legal notice and posting requirements of greater duration than the OML. As the Attorney General has yet to issue a specific determination on this issue, Mr. Turkington suggested that the committee direct him to seek an advisory opinion on the issue of posting and agenda requirements for public bodies appearing before adjudicatory boards and that adherence to the decision be offered as settlement of the complaint.

Mr. Turkington distributed revised minutes of the meeting of February 24, 2011, as clarified. Mr. Crowley moved, seconded by Mr. Goddard, to approve the minutes of February 24, 2011 as amended to clarify the direction and discretion given to *ex officio* staff members of the Committee to act on behalf of the Committee with respect to filing the application for a Certificate of Appropriateness with the HDC. YEA: Crowley, Goddard and Carver. NAY: none. ABSTAIN: none. ABSENT: none. 3-0.

Public Comment: Linda Segal noted that the committee is required to follow the precise requirements and timetable in the OML law and regulations in responding to her complaint. Mr. Carver responded that the committee would do so, and if it was not clear from the discussion, he would have the town administrator review the steps in addition to the plan to seek an advisory opinion to address the complaint within the deadlines. After Mr. Turkington reviewed the outline of the letter seeking an advisory opinion that had been drafted in anticipation of the committee discussion, he reviewed additional actions to be taken in response to the complaint. Mr. Crowley then moved, seconded by Mr. Goddard, to authorize the Town Administrator to prepare and send a response to the Attorney General on the OML complaint of Linda Segal of May 27, 2011 containing the following elements:

- approve the minutes of the February 24, 2011 meeting as amended to clarify the direction and discretion given to *ex officio* staff members of the Committee to act on behalf of the Committee with respect to filing the application for a Certificate of Appropriateness with the HDC, addressing communication by *ex officio* members with the HDC;
- acknowledge that the appearance of a quorum of the Committee discussing the elements of a prospective application with the HDC on March 24 is distinguishable from the presentation of an application for a certificate of appropriateness at a duly noticed public hearing, and therefore should have been noticed as a meeting under the OML, thereby addressing the allegation of a pattern of non-compliance by Ms. Segal in her complaint;
- agree to convert notes of the discussion with the HDC to meeting minutes (subject to final approval by the committee at the next meeting) to cure any failure to post notice and agenda of a March 24 meeting of the committee with the HDC in response to the letter of complaint from Ms. Segal;
- direct the Town Administrator to clarify notes of the April 28, 2011 presentation of an application for a certificate of appropriateness at the HDC meeting and present for approval by the committee at the next meeting; and,
- direct the Town Administrator to seek an advisory opinion from the Attorney General relative to the position that a presentation of an application by visiting public bodies at public hearings of adjudicatory bodies are not meetings requiring posting notice and agenda and agreeing to abide by the advisory opinion as a determination of whether the presentation to the HDC on April 28, 2011 was a meeting under the OML.

YEA: Crowley, Goddard and Carver. NAY: none. ABSTAIN: none. ABSENT: none. 3-0.

Mr. Moynihan presented the proposed contract with CSS Architects, Inc. for design specifications and documents and reviewed the timeline for bidding the project and the goal to complete heating system work by the middle of November 2011. Mr. Goddard moved, seconded by Mr. Crowley, to recommend approval and authorize the Town Administrator to execute the contract with CSS Architects, Inc in an amount not to exceed \$105,000 as present. YEA: Crowley, Goddard and Carver. NAY: none. ABSTAIN: none. ABSENT: none. 3-0.

Ms. Segal asked whether Mr. Crowley had considered or sought an opinion as to the appropriateness of his participation as a member of the HDC in voting on the application for a certificate of appropriateness for the Public Safety Building repairs. He replied that he had conferred with HDC chair Gretchen Schuler, who believed he had no conflict of interest or other basis for excluding himself from participation. It was noted that the application was approved 7-0, so Mr. Crowley's participation and vote had no bearing on the outcome.

There being no further business to come before the committee, the meeting was adjourned at 6:43 p.m. YEA: Crowley, Goddard and Carver. NAY: none. ABSTAIN: none. ABSENT: none. 3-0.

Respectfully submitted,

Fred Turkington  
Town Administrator