



TOWN OF CHARLTON  
Minutes of Regular Selectmen's Meeting  
January 12, 2010

Submitted by MCT  
Date 1/28/10  
Received by \_\_\_\_\_  
Date \_\_\_\_\_

Present: Vice-Chairperson – Kathleen W. Walker, Clerk – Scott D. Brown<sup>1</sup> and Members – Peter J. Boria and David M. Singer. Also present, Town Administrator - Robin L. Craver. Absent: Chairman – Frederick C. Swensen

*NOTE: Some matters may have been taken out of agenda order but were typed up in agenda order for ease of locating information when necessary.*

I. Call to Order:

Vice-Chairperson Walker called the meeting to order at 6:30pm with the pledge to the flag and a moment of silence for the residents of Haiti who are going through a horrific time.

II. Consent Agenda:

1. Approval of Regular Minutes – December 15, 2009. **Motion by Mr. Singer to approve the minutes of December 15, 2009, seconded by Mr. Boria, motion carries unanimously.**

III. Community Relations, Announcements and Open Forum:

- Vice-Chairperson Walker read the announcements.

IV. Appointments/Resignations:

V. Scheduled Appointments:

**6:45pm** – Glen Echo Lake Drawdown & Wells. Jackie Nowak, President of Glen Echo Association and Lee Lyman, Engineer were present. Ms. Nowak stated that they had come before the board previously to discuss increasing the draw from four feet to five feet. It was recommended that they review the homes that would have possible issues with their wells if this occurred. Mr. Lyman stated that they had gone to these properties and have determined if these issues are from the drawdown or their wells. Mrs. Craver asked what the next step would be. Mr. Lyman stated that they would make the recommendation to the homeowner and it will be up to them to decide what they wish to do. They would try to work with them to solve the problem. Mr. Boria feels the biggest thing right now is to see what the cost would be to the three homeowners that would be affected to have an artesian well put in. Mr. Lyman feels there are other options that could be looked at. Mr. Boria feels that if the Lake Association is in agreement with Mr. Lyman on which way to go then the lake association should assume the cost of the study. Kevin Chambers from 171 Sunset Drive came forward. He said he spoke with Mr. Burlingame in the Board of Health's office who stated that there is no digging of wells allowed. Mr. Chambers would ask that they are never asked to come up here again to discuss their wells. He said they want the four foot drawdown, the start date and end date of the drawdown. Mr. Boria would ask the residents that were here with the shallow wells, if the lake association were to do the study and determined that an artesian well would solve these concerns and allow the

<sup>1</sup> Mr. Brown entered at 6:40pm

drawdown to be down and you would be hindered or have to budget any time there was a drawdown in the future even if it was four feet, would you be willing, if the lake association and the town were to fund some of that to have those artesian wells installed. Mr. Field from Sunset Drive said that as he said last time, they are willing to work on the options. He does not feel the assessment that Lycott proposed makes a lot of sense. He doesn't feel it makes sense to spend \$2200 to find out if the well won't work. Mr. Chambers said that he will not put in an artesian well and he will not let the association come onto his property. Ms. Nowak feels that they should work with the association to help find a solution to the problem. The Board thanked all for coming.

**7:00pm** – Continuation of Earth Removal permit hearing. Mrs. Craver stated that on December 1, 2009, the Board opened the public hearing for the earth removal permit request submitted by Jalbert Engineering, Inc. on behalf of Rennoc Realty Trust for property located on Route 20. It was noted by Graves Engineering that changes needed to be made before they would make a recommendation. Attached you will find a recommendation from the Building Commissioner based on the recommendation of Graves Engineering. Curtis Meskus, Building Commissioner came forward as well as Mr. Jalbert who represents Rennoc Realty Trust. Mr. Meskus stated that Graves Engineering has reviewed all the information and Mr. Jalbert has submitted a final plan. Seeing no further discussion, **motion by Mr. Brown to close the hearing, seconded by Mr. Boria, motion carries, hearing closed. Motion by Mr. Boria to approve the earth removal permit including the ten conditions as stated in the January 8th letter from Mr. Meskus, seconded by Mr. Brown, motion carries unanimously.**

**7:15pm** – Report & Input from Municipal Building committee for ADA project. Curtis Meskus, Chairman of the Municipal Building Committee is scheduled at 7:15pm to update the Board on the current drawings for the proposed Town Hall accessibility modifications which the Committee intends to submit for the grant. Mr. Meskus stated that several months ago, we entered into a contract with Durland Vor Voorhis to develop some plans for ADA compliance for the building. The Committee has looked at several schemes and are ready to bring it to you. Kevin Kennedy of Bay State Grants was also present to discuss citizen input and the grant process. Mr. Meskus reviewed the plans. The preliminary cost estimate is around \$700,000. After all discussion, Mr. Meskus stated that the committee is recommending moving forward with the grant. **Motion by Mr. Boria that we send in the request for funding, seconded by Mr. Brown, motion carries unanimously. Motion by Mr. Boria that this board draft a letter to DHCD not only for the application but a separate letter asking them to fund this project, seconded by Mr. Brown, motion passes unanimously. Motion by Mr. Boria that we also send a letter to Senator Brewer, not just a phone call from the Town Administrator, but a letter from the Board to Senator Brewer, Representative Alicea and US Representative Neal to ask them to also send a letter of support for our grant application, seconded by Mr. Brown, motion passes unanimously.**

VI. Old Business: None

VII. New Business:

1. Special Permit Application – PCK Realty LLC/Excel Recycling, LLC. Mrs. Craver stated that the Planning Board will be holding a public hearing on January 20, 2010 for the special permit application plan submitted by Bertin Engineering Associates, Inc. on behalf of PCK Realty LLC/Excel Recycling LLC for approval to operate a scrap metals recycling business including a scale house and truck scale within an 89,000 square foot area on an existing parcel located northerly off of Route 20 and westerly of Griffin Road (Assessors Map 27, Block C, Parcel 4.1) Should you wish to provide any comments on this application, we must notify the Planning Board no later than January 14, 2010. No comments by the Board.

2. Letter from Cub Scout Pack 165 – Mrs. Craver stated that attached is a letter from Matthew McCabe, Cubmaster for Cub Scout Pack 165 stating that on March 1<sup>st</sup>, several boys will be graduating from Cub Scouting into the wonderful world of Boy Scouting. All of these boys have earned the Arrow of Light Award which is the highest award that a boy can earn in Cub Scouting. In recognition of this achievement, Mr. McCabe is asking the Board to provide a certificate of achievement for each of the young men on the attached list. All certificates have been completed and are in your sign folder. Once completed, they will be mailed to the address that was provided. Vice-Chairperson Walker read the recipients names as follows: Zachary Abate, Kyle Anderson, Justin Holby, Bryce Michaelson, Stephen Myers, Nathan Tetreault, Michael Mielinski, Devin McCable, Connor Canty, Harry Rotondo, Harry Brewer, Nicholas Henry, John Austin Mancini, Thomas Ryan, Jonathan Boniface, Nathan LeClerc, Ryan King, Jarrod Kleya, Erik Fuhrmann, Jacob Squitier, Tobias Nash and Jonathan Froehlich.

VIII. Student Selectperson Report – not present

IX. Town Administrator Report: (see attached)

X. Other Business: Bob Blozie from the Senior Center came forward to announce that they are asking people to complete the Charlton Older Adult Community Center Survey and drop it off in the senior center. They are looking for what would be needed in the future for a senior center when the time comes.

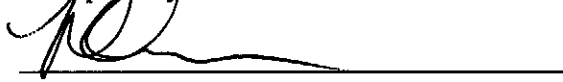
XI. Adjourn/Executive Session: **Motion by Mr. Boria that the Board convene in executive session at 7:43pm to deliberate on the minutes of a prior executive session and the matters contained therein and convene for the sole purpose of adjournment, seconded by Mr. Brown. Roll call vote taken: Mr. Boria – aye, Mr. Singer – aye, Mr. Brown – aye and Vice Chairperson Walker – aye.**

XII Next Meeting Announcement:

- Next Regular Selectmen's Meeting – January 26, 2010

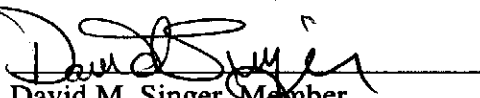
Respectfully submitted by:  
Mary C. Devlin  
Administrative Assistant


Accepted by:

  
\_\_\_\_\_  
Frederick C. Swensen, Chairperson (absent)

  
\_\_\_\_\_  
Kathleen W. Walker, Vice-Chairman

\_\_\_\_\_  
Scott D. Brown, Clerk

  
\_\_\_\_\_  
David M. Singer, Member

  
\_\_\_\_\_  
Peter J. Boria, Member




**TOWN OF CHARLTON  
OFFICE OF THE TOWN ADMINISTRATOR**

**37 Main Street  
Charlton, MA 01507  
WWW.TOWNOFCHARLTON.NET  
Phone (508) 248-2206  
Fax (508) 248-2066**

Robin L. Craver, Town Administrator  
[robin.craver@townofcharlton.net](mailto:robin.craver@townofcharlton.net)

**MEMORANDUM**

**TO:** Honorable Chairperson and Members of the Board of Selectmen  
**FROM:** Robin L. Craver, Town Administrator   
**DATE:** January 6, 2010  
**SUBJECT:** Town Administrator Report for the BOS meeting of 1/12/10

**2010 Licenses** – I am happy to announce that all licenses issued by the Board of Selectmen have been paid for and picked up. One license that did not renew was American Reclamation Corporation. They are working with DEP on some issues at this time and may re-apply in the future.

**Baker Pond Road request for renumbering** – We have been notified by the Building Commissioner that the numbering of lots for Baker Pond Road is out of sequence. The Board is being requested to hold a public meeting at your next meeting for the purpose of renumbering such lots.

**2011 Budget** – I am working to prepare the information needed to start the process for the 2011 budget and will have the information ready for the board to review at your next meeting on January 26, 2010.

**2009 Annual Town Reports** – It is that time of year again that we will be seeking all Boards/Committees Annual reports for the year 2009.

**Tax Bills** – Fiscal Year 2010 real estate and personal property bills were mailed on December 30, 2009.

**Return from Furlough** – Upon re-opening the Town Hall after the two week furlough, I would like to commend all Department Heads for working so diligently to ensure that the citizens had what they needed prior to closing and arrangements were made if work needed to be done during this time. I would like to give a special thanks to Chief Pervier and Gail Foley for fielding any calls that were needed. They did an exceptional job.

**Exxon Mobil Settlement** – In the case of the MTBE Products Liability Litigation vs. Exxon Mobil, attached is a copy of a check in the amount of \$139,386.29 to the Town of Charlton as the final settlement agreement. This amount has been deposited into an MTBE General Account.

***Procedure for convening an executive session to review minutes*** - At the Board's December 15, 2009 meeting, a question was asked if the Board could go into executive session for the purpose of approving minutes. Attorney Cosgrove has stated that there is a necessary implication in the open meeting law which allows review of the minutes of previous executive session minutes in closed session. He has provided a draft motion that could be used for such purpose. "I move that the board convene in executive session to deliberate on the minutes of prior executive sessions and the matters contained therein." The underlying rationale is that the original exemption allowing the executive session, as declared when the public body first convened in executive session, continues as the basis for subsequent executive sessions until and unless the purpose for the executive session has ended.

[REDACTED]

RODMAN RODMAN & SANDMAN  
ATTORNEYS AT LAW

JAN - 4 2010

December 21, 2009

**Re: In re Methyl Tertiary Butyl Ether ("MTBE") Products Liability Litigation  
MDL No. 1358 – Exxon Mobil Settlement**

Dear Client:

We are pleased to notify you that the settlement on your behalf with Exxon Mobil in the above case is now final and funded. Enclosed are the following:

1. Settlement Statement itemizing your gross and net settlement proceeds, attorneys' fees, and your portion of expenses; and
2. Settlement check for the net proceeds in accordance with your prior approval of this settlement.

Thank you for your continued courtesy and cooperation. Should you have any questions, please do not hesitate to contact us.

Very truly yours,



Richard M. Sandman  
Robert J. Gordon  
Scott Summy

RMS:lz

Enclosures: as stated

*deposited into an MTBE General Account*

THIS CHECK IS VOID WITHOUT A GREEN & BLUE BORDER AND BACKGROUND PLUS A KNIGHT & FINGERPRINT WATERMARK ON THE BACK - HOLD AT ANGLE TO VIEW

**BARON & BUDD, P.C.**

ATTORNEYS and COUNSELORS  
Ph. (214) 521-3605  
3102 Oak Lawn Ave., Suite 1100  
Dallas, TX 75219

**Bank of Texas, N.A.**

Dallas, Texas  
32-1432/1110

VOID

CHECK NO.  
1358803

**PAY** One Hundred Thirty-Nine Thousand Three Hundred Eighty-Six and 29/100 Dollars

**DATE**  
12/17/2009  
VOID AFTER 180 DAYS

**AMOUNT**  
139,386.29

**TO THE ORDER OF** Town of Charlton  
Charlton Municipal Building  
37 Main Street  
Charlton MA 01507

AUTHORIZED SIGNATURE

Memo: 04 1118 1 - MTBEEXXON-FMB BOTESCROW1

⑈ 1358803⑈ ⑆ 111014325⑆ ⑈ 8092195248⑈

**BARON & BUDD, P.C., ATTORNEYS and COUNSELORS**

Settlement Info	Date	Amount	Check Number
04 1118 1 - MTBEEXXON-FMB	12/17/2009	139,386.29	1358803

**BARON & BUDD, P.C.**  
**ATTORNEYS AND COUNSELORS**  
**3102 OAK LAWN AVE., #1100**  
**DALLAS, TEXAS 75219-4281**  
**(214) 521-3605**

**SETTLEMENT STATEMENT**

IN RE: Town of Charlton

Settlement: 09 8603 - 04 1118 1

Exxon Mobile Corporation	209,313.54
Total Settlement	209,313.54
Less Attorneys fee (33.33%)	69,771.18
Less Partial Litigation Expenses	
Referring Attorney Costs	91.64
Filing and Service Fees	13.28
Court Reporters	13.32
Misc. Postage Copies, etc.	-56.30
Travel	94.13
Sub Total Expenses	156.07
Balance Due Claimant	139,386.29

**Craver, Robin**

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**From:** Jim F. Cosgrove [jcosgrove.law@verizon.net]  
**Sent:** Thursday, December 17, 2009 7:08 AM  
**To:** Craver, Robin  
**Cc:** Patti Geddes  
**Subject:** Re: Procedure for convening and executive session to review minutes

Dear Robin:

As I had discussed with Chairman Swenson and you when we spoke by telephone on Tuesday, there is a necessary implication in the open meeting law which allows review of the minutes of previous executive session minutes in closed session.

A motion to do so could be such as, "I move that the board convene in executive session to deliberate on the minutes of prior executive sessions and the matters contained therein." The underlying rationale is that the original exemption allowing the executive session, as declared when the public body first convened in executive session, continues as the basis for subsequent executive sessions until and unless the purpose for the executive session has ended. A check with the city solicitors and town counsel serve list, in addition to confirmation of the foregoing, yielded a comment by a most highly respected former A.G. that he believes this is the interpretation followed by district attorneys as well. If the board wished to handle it with particular care another way to handle it would, I suppose, be to re-state in the motion each of the grounds originally used for any executive session covered by the minutes to be reviewed. But if the purpose of the meeting were to review the minutes of a number of earlier sessions (such as in periodic review of same, rather than one or two such sessions), and the motion would then be citing a veritable smorgasbord of reasons I am not sure that would accomplish much beyond the general form of motion first stated in this paragraph.

Sincerely,

Jim

----- Original Message -----

**From:** Craver, Robin  
**To:** Jim F. Cosgrove  
**Sent:** Wednesday, December 16, 2009 2:41 PM  
**Subject:** more executive session....

Hi Jim,

Last night the BOS had on their agenda to go into executive session to approve the ex session minutes. That was to be the only business to be conducted, but they had second thoughts and voted not to go into it and ask you, "Can we go into executive session to approve ex session minutes if there is no other qualifying issue to enter into ex session for?" There is no exemption for approval of minutes and they want to know if it is continuing the business of the subject matter in the previous meeting's minutes that would allow them to enter into ex session to just approve minutes.