

**TOWN OF DARIEN
BOARD OF SELECTMEN
REGULAR MEETING
MONDAY, OCTOBER 26, 2009**

ATTENDANCE: 1st Selectwoman Evonne Klein; Seth Morton; David Bayne;
Callie Sullivan; Linda Santarella

STAFF: Karl Kilduff, Administrative Officer

OTHERS: Cathy Beckman; Peter Rogers; Jan Pierret; Sandy Stoller;
Jenny Schwartz, DHA;
Craig Flaherty, Chris Rowland, Flood Mitigation Committee

CALL TO ORDER

1st Selectwoman Klein called the Regular Meeting to order at 8:00 p.m.

**** MR. MORTON MOVED TO AMEND THE AGENDA.**

**** MR. BAYNE SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

**** MR. BAYNE MOVED TO ADD AN ITEM, PROCLAMATION FOR MARY GREEN, TO THE AGENDA.**

**** MS. SULLIVAN SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

PROCLAMATION FOR MARY GREEN, DARIEN ROAD RACE

1st Selectwoman Klein announced a Proclamation for Mary Green, a Darien resident who has been instrumental in the coordination of the Darien Road Race, which is now in its 30th year. Ms. Green is a supporter of the American Cancer Society and has raised thousands of dollars to benefit the Whittingham Cancer Center, the Bennett Cancer Center, and the Community Fund of Darien.

Ms. Green thanked 1st Selectwoman Klein, the Board of Selectmen, and members of the audience for the Proclamation.

PUBLIC COMMENT

There were no public comments.

NEW BUSINESS

a) Discuss and Take Action on Possible Local Ordinance Creating A Tax Exemption for Affordable Housing

1st Selectwoman Klein said that the three Board members absent from last week's meeting were able to review the Tax Exemption for Affordable Housing presentation on Channel 79.

Mr. Bayne said the ordinance came forward at the request of the DHA, with respect to Allen O'Neill. He felt they should be de-coupling this ordinance from the specific request for a tax abatement. The ordinance before them tonight relates solely to providing the Town with the authority to give a tax abatement. It doesn't mean that if the ordinance passes, that the tax abatement for the DHA will be adopted, and it doesn't deal with the terms of any future tax abatement. This ordinance also would relate to any other future affordable housing tax abatement for other affordable housing units. He felt the question before them tonight was a policy decision, regarding whether the Town of Darien should have the ability to provide real property tax abatements for affordable housing developments. He said he was in favor of the concept, and he would recommend one change to the Statute. He recommended the deletion of the sentence in Paragraph C, which reads: "The abatement shall be granted only for low and moderate income housing upon which construction or rehabilitation commences after January 1, 2010." He confirmed with Town Counsel that this sentence was in the Statute only to make it effective as of a certain date, but he wasn't sure why they needed that limitation in the ordinance if it's not necessary to comply with some State law.

Mr. Morton asked if they needed a general ordinance.

Mr. Bayne said it was Town Counsel's opinion that they have to follow this procedure.

Mr. Kilduff said that the General Assembly has provided for a local option that the ordinance contain the ability to provide tax abatements for affordable housing.

Ms. Sullivan said she was in favor of moving this forward to the RTM.

Ms. Santarella said that while she didn't have a chance to review the tape from last week, she agrees with Ms. Sullivan and is in favor of moving this forward to the RTM.

Mr. Sandy Stoller, Fairfield Avenue, spoke about the neighbors not having any input or not knowing of any meetings taking place regarding this. He felt that living in a construction zone would take away from the value of his home, and possibly lead to

not being able to sell his home. He said he thought that the present Board of Selectmen was rushing to pass this ordinance through. He asked that a property owners' abatement clause be included in the ordinance.

Mr. Bayne said that the Board of Selectmen sits in an advisory position when it comes to ordinances, because the sole body for enacting ordinances is the RTM. He said they would pass this along to the RTM for their consideration to adopt it or not.

More discussion took place among the Board of Selectmen regarding the ordinance.

Mr. Morton said that the ordinance should not come as any surprise, as the Board of Selectmen has been trying to pass it for two years, and is now passing it along to the RTM.

Mr. Bayne said that there will be time for the neighbors to come before the Town and the DHA to voice their opinions, and he said they would be willing to hear Mr. Stoller, and his neighbors, at that time, in addition to taking into consideration his comments now.

1st Selectwoman Klein said that it has been the clear direction of the Board for the past two years to support affordable housing. They are completing the work that had begun two years ago. She wanted to confirm that meetings had taken place on this, as well as public hearings held by the Planning & Zoning Commission, and these meetings and hearings were an opportunity to have residents voice their opinions/concerns. She said there are less units proposed in the project now than in the original proposal. She said that if Mr. Stoller felt that Planning & Zoning hadn't heard his concerns, that he would have to take his concerns up with them.

Ms. Santarella said that this is not the Board of Selectmen's project. She said their project is 35 Leroy Avenue.

Ms. Cathy Beckman, Noroton Avenue, said she has trouble with the decoupling. She said she has a problem with the developer. She is a financial person, and she has never seen a building plan. She said she googled the developer, Arthur Anderson, and found a disturbing article written about him. She said that tax abatement has financial implications. She suggested that they update the resume on Arthur Anderson, showing what he has done since that article was published.

Ms. Jenny Schwartz, Chairman of the Darien Housing Authority (DHA), said she was hesitant to discuss the 2000 article on Arthur Anderson, saying he was the subject of an investigation, and that it had been settled with having him found not guilty of any wrongdoing. There was no further investigation. She said they have found Arthur Anderson to be highly dependable, and there was no one better in the business, and it was a unanimous decision to appoint him. She said he sits on the CHAFA Board, as well as the Governmental Task Force for Affordable Housing.

Ms. Schwartz wished to correct a statement made at last month's meeting. She said that the 2008 projects had cranked up their prices, and after the August and September recession took place, the prices fell. The credits were then taken back in exchange for stimulus money. She said the project is based upon current market conditions.

Mr. Peter Rogers, Noroton Avenue, said that he visited the 6 sites that Arthur Anderson had worked on. He said the conditions were fair. He invited the Board to go see them. He mentioned that Arthur Anderson was chosen as a second choice. He said that Jonathan Rose was the first choice.

He asked why the tax abatement issue came up now, if the Board had been interested in passing this ordinance along for two years. He said he felt it smelled like a rat.

Mr. Bayne said the problem is that it keeps being coupled. He said they are not saying that they want to provide tax incentives by adopting or passing this along to the RTM. He said they want to have conversations on whether or not they should be providing tax abatements for affordable housing projects, not just Allen O'Neill. He said he understands that Mr. Rogers is in litigation with the Town over the Allen O'Neill project, and felt it fair that everyone should know where they stand.

Ms. Jan Pierret, Fairfield Avenue, read a statement that will be provided to Mr. Kilduff for inclusion in the minutes.

1st Selectwoman Klein asked Mr. John Vanderkief about the proposed assignments for tax abatement mentioned at last week's Rules Committee Meeting, and he confirmed that no assignments would be made until the vote was taken tonight.

**** MS. SULLIVAN MOVED TO APPROVE THE LOCAL ORDINANCE CREATING A TAX EXEMPTION FOR AFFORDABLE HOUSING.**

**** MR. BAYNE SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

b) Discuss and Take Action on Request for Funding Appropriation for Noroton River Watershed Study

1st Selectwoman Klein explained that this is a request for an appropriation of \$130,000 to study the 3rd of Darien's 5 watersheds. She said that she is concerned about the other two watershed studies currently underway, and while she would like to vote on this, she is concerned that this might not be in the interest of the community.

Mr. Craig Flaherty and Mr. Chris Rowland are members of the Flood Mitigation Committee, and Mr. Flaherty said that right now, the Committee is still working on the Stony Brook Watershed Study. He said the Goodwives River Watershed Study is next, and there is no urgency for the Norton Watershed Study. The one thing that should be completed is to update the maps, and that would be money well spent.

Mr. Bayne said that this flooding problem has been in the making for 50 years, and there are unseen problems surrounding it. He feels that they have a responsibility to become aware of those problems, and he said he is in favor of moving forward on this.

1st Selectwoman Klein said she agrees with Mr. Bayne. She felt it was up to them to act now, so that in the event of another catastrophic flood, administration would not be accused of not acting on this.

Mr. Chris Rowland of the Flood Mitigation Committee said it is important to keep the ball rolling, that it is a community problem, and that neighbors should help neighbors.

Mr. Morton said they can't leave the job 2/3 done, that there is one more piece to do to have the whole picture of the whole town complete.

Ms. Sullivan said that everyone is in favor of moving this along, that it was time to stop the crazy cycle, and the recommendations are needed to conduct the studies.

1st Selectwoman Klein said she has all the documentation related to the last flood.

**** MS. SANTARELLA MOVED TO APPROVE THE REQUEST FOR A \$130,000 FUNDING APPROPRIATION FOR NOROTON RIVER WATERSHED STUDY.**

**** MR. MORTON SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

c) Discuss Recommendation from the Flood Mitigation Committee

1st Selectwoman Klein thanked Craig Flaherty and Chris Rowland for heading up the Flood Mitigation Committee. It was mentioned that there are members of the Board of Finance and the EPC staff that are also involved. Mr. Flaherty said that the idea of getting the flood map updated is a good idea, as there are residences in harm's way that need to get flood insurance.

Mr. Bayne asked when they would be ready to come forward with a series of proposals on the Stony Brook Watershed Study. Mr. Flaherty said that they don't have anything yet, but the Committee meets twice a month, and the next meeting is on November 19th.

Ms. Santarella confirmed with Mr. Kilduff that the letters will be sent out soon to the property owners.

1st Selectwoman Klein said that there was a \$15,900 policy decision that had not been approved at the Board of Finance meeting because the Board of Selectmen hadn't approved it at their meeting. She suggested that the flood map be updated so that people potentially affected could get flood insurance.

Ms. Sullivan thought that was a great idea, because of the increased development in the flood plain area. If it is not correctly on the map as a potential flooding area, then houses/building would be constructed and then potential flooding could occur.

1st Selectwoman Klein said this will be added to the agenda for a vote later in the evening.

- d) Discuss and Take Action on Possible Local Ordinance Creating a Tax Exemption for Certain Handicapped Motor Vehicles

Mr. Bayne said that with regard to the statement saying "Application must be filed within 30 days following the annual assessment date", that people may not be aware of the 30 days notice date. He suggested that a standard date of October 31 be included.

Mr. Kilduff then read the following corrected statement:

Section 3 Application: (Not verbatim)

Any person who desires to claim an exemption provided in this article must file a written application annually to the Tax Assessor for the Town of Darien by October 31. Failure to file such an application will waive the right to such an exemption for the assessment year.

**** MS. SANTARELLA MOVED TO APPROVE THE LOCAL ORDINANCE CREATING A TAX EXEMPTION FOR CERTAIN HANDICAPPED MOTOR VEHICLES.**

**** MR. MORTON SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

- e) Discuss and Take Action on a Resolution Authorizing and Directing the First Selectwoman to Submit an Application for Funding under the Office of Policy and Management Municipal Energy Efficiency and Conservation Block Grant

Mr. Kilduff explained that this is the Energy Efficiency Conservation Block Grant Program that the State of Connecticut has determined will enable Darien to receive a maximum of \$83,624. He said this will be incorporated into the pre-existing roofing project for the other half of the Town Hall building.

**** MS. SULLIVAN MOVED TO APPROVE A RESOLUTION AUTHORIZING AND DIRECTING THE FIRST SELECTWOMAN TO SUBMIT AN APPLICATION FOR FUNDING UNDER THE OFFICE OF POLICY AND MANAGEMENT MUNICIPAL ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT**

WHEREAS, the State of Connecticut has applied for funding under the American Recovery and Reinvestment Act through the Department of Energy to award formula-based grants to local governments under the Energy Efficiency Conservation Block Grant; and

WHEREAS, the Town of Darien is eligible for \$83,624 in potential grant funding through this program; and

WHEREAS, it is the intention of the Town to use the above grant funds, with \$310,000 of committed local funding, to replace a portion of the Town Hall roof with a Building Integrated Photovoltaic Solar Power System; and

WHEREAS, the Board of Selectmen wishes to secure such grant funding.

NOW, THEREFORE, BE IT RESOLVED that the Town of Darien Board of Selectmen hereby authorize and direct First Selectwoman, Evonne M. Klein, to submit an application for funding under the Office of Policy and Management Municipal Energy Efficiency and Conservation Block Grant and understand the funding under this program is from Connecticut's allocation of funds under the American Recovery and Reinvestment Act Energy Efficiency Conservation Block Grant.

**** MS. SANTARELLA SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

- f) Discuss and Take Action on Referral to Planning & Zoning Commission for Report on the Possible Lease of Town Hall for a Wireless Carrier Equipment in Accordance with CGS 8-244

Mr. Kilduff said this is the same carrier that requested to be co-located with the wireless internet service at the tower on Ledge Road. He said the developer also wants to have a similar location at the Town Hall building on the chimney.

Some discussion took place among the Selectmen, with mention being made of needing to see what it would look like, wanting more money for the lease, and concern over setting a precedent for other Town buildings. Mr. Kilduff explained that this has to be approved by the RTM, and that there are three Governmental bodies setting a public policy as to how municipal space is used.

**** MR. MORTON MOVED TO POSTPONE TAKING ACTION ON REFERRAL TO PLANNING & ZONING COMMISSION FOR REPORT ON THE POSSIBLE LEASE OF TOWN HALL FOR A WIRELESS CARRIER EQUIPMENT IN ACCORDANCE WITH CGS 8-244**

**** MS. SULLIVAN SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

**** MS. SANTARELLA MOVED TO ADD AN ITEM, DISCUSS AND TAKE ACTION ON TRANSFER REQUEST OF \$15,900 FROM CONTINGENCY FOR UPDATING THE FEMA FLOOD PLAIN MAPS, TO THE AGENDA.**

**** MR. MORTON SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

g) Discuss and Take Action on Transfer Request of \$15,900 from Contingency for Updating the FEMA Flood Plain Maps

**** MS. SULLIVAN MOVED TO APPROVE THE TRANSFER REQUEST OF \$15,900 FROM CONTINGENCY FOR UPDATING THE FEMA FLOOD PLAIN MAPS.**

**** MR. MORTON SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

1st SELECTWOMAN'S REPORT

1st Selectwoman Klein said she had received a thank you note from Elaine Kilbourne, who was recently named Employee of the Month. A luncheon was held in her honor.

1st Selectwoman Klein said that the Hollow Tree Ridge Road bridge will be open on Friday. The train trestle project is scheduled to be completed in December 2010.

She said they received notice from CRRA that they will be receiving a reimbursement of \$42,454.89 for the Bridgeport project.

She said that there are more doses of the H1N1 vaccine are en route to Connecticut.

ADMINISTRATIVE OFFICER'S REPORT

Mr. Kilduff said that the CCM has started the legislative process. It builds the agenda for the session at this time of year. It should be a very small and focused agenda.

He said the acquisition of 33 Cherry Street in accordance with the FEMA grant is .75 on the dollar, paid for by the Federal Government. The Town will pay the other .25. They are coming to terms with the property owner.

He said the Swap Shop has been approved by the Planning & Zoning Commission. Funding has been approved for it by the Board of Finance. Public Works is ready to put up the tent.

He explained that the Fire Department grant spending information is not complete. He said he expects information from Noroton Heights next month. He said he hasn't received information from Noroton, or the library.

He said that the budget season for 2010/2011 is not a good picture, and could be worse than the 2009/2010 year. Services should be expected to be reduced. It won't be a growth year, but rather a status quo year or a contraction year.

1st Selectwoman Klein said that Ms. Santarella and Mr. Morton will go to a public hearing on the budget if necessary.

AGENDA REVIEW

This was not discussed.

APPROVAL OF MINUTES OF PREVIOUS MEETINGS

Regular Meeting of May 4, 2009 (rewrite)

**** MS. SANTARELLA MOVED TO APPROVE THE MINUTES OF MAY 4, 2009 AS AMENDED.**

**** MR. MORTON SECONDED.**

The corrections to the minutes of May 4, 2009 are as follows:

On page 3, 5th full paragraph down, the last sentence should be omitted.

On page 5, 2nd paragraph, the first sentence should be omitted.

On page 8, last paragraph, last sentence, change “believe” to “believed”.

**** MOTION PASSED UNANIMOUSLY.**

Regular Meeting of September 8, 2009

**** MR. BAYNE MOVED TO APPROVE THE MINUTES OF SEPTEMBER 8, 2009 AS AMENDED.**

**** MR. MORTON SECONDED.**

The corrections to the minutes of September 8, 2009 are as follows:

On page 2, 2nd paragraph, 1st sentence, change “Mr. Donald Bud” to “Mr. Donald Budd”.

On page 3, under **PUBLIC COMMENT**, last paragraph, the sentence should read: “Mr. Walter Casey, 8 Webster Valley Road, said he did not vote for Barack Obama, and he didn’t agree with the Board of Education’s decision to not air the President’s speech today in the public schools.”

On page 3, under **REPORT from Jenny Schwartz of the Darien Housing Authority**, 1st sentence, change “Mark Thorne” to “Marc Thorne.”

On page 4, 4th paragraph, last sentence, change “When the pilot money is no longer funded, the Town will gain \$28,000 in taxes.” To “When the pilot money is no longer funded, the Town will lose \$75,000 in revenue.”

On page 4, 5th paragraph, change “They are asking for no taxes in years 1-5” to “They are asking for a tax abatement during construction and in years 1-5”.

On page 7, under **Key Holdings #2**, 6th paragraph, 2nd sentence, change “He said that they can’t apply the open space rationale to all.” to “He said that they can’t apply the open space rationale to the redevelopment of existing buildings in downtown Darien and elsewhere.”

On page 7, under **Key Holdings #2**, 6th paragraph, the 4th sentence should read: “He mentioned that repeated studies show a need for affordable housing, and questioned whether any Town had successfully defended against an 8-30G appeal by arguing that it is so wealthy that it has no need for affordable housing.”

**** MOTION PASSED UNANIMOUSLY.**

Regular Meeting of September 21, 2009

**** MR. BAYNE MOVED TO APPROVE THE MINUTES OF SEPTEMBER 21, 2009 AS AMENDED.**

**** MR. MORTON SECONDED.**

The corrections to the minutes of September 21, 2009 are as follows:

On page 3, 4th paragraph, last sentence, add a period to the end of the sentence.

On page 3, 5th paragraph, last sentence, omit a period at the end of the sentence.

On page 3, last paragraph, the 1st sentence should read: "Ms. Carolyn Schoonmaker asked about the status of the ground lease."

On page 4, 1st paragraph, 1st sentence, change "Ms. Joi Reiner Gallo asked if the ground lease had been substantiated," to "Ms. Joi Reiner Gallo asked if the ground lease had been substantially negotiated,".

On page 4, 1st paragraph, add the following as the 2nd sentence: "Mr. Fox replied that the lease had not yet been substantially negotiated and further explained that the carrying costs of the building would have to be incurred."

**** MOTION PASSED UNANIMOUSLY.**

Regular Meeting of October 5, 2009

**** MR. BAYNE MOVED TO APPROVE THE MINUTES OF OCTOBER 5, 2009 AS AMENDED.**

**** MS. SULLIVAN SECONDED.**

The corrections to the minutes of October 5, 2009 are as follows:

On page 1, under **NEW BUSINESS**, 1st paragraph, 1st sentence, change "moderate" to "moderator".

On page 1, under **NEW BUSINESS**, 1st paragraph, 2nd sentence, change "member" to "members".

On page 2, 7th paragraph, add as the 1st sentence: "Mr. Bayne pointed out many areas where the Board of Selectmen had accepted and acted upon the RTM's advice with respect to the property."

On page 2, 7th paragraph, 2nd sentence, change "A hearing was then held at the end of July and many speakers came forward in support of the plan." To "A hearing was then

held at the end of July and many speakers came forward in support of affordable housing at the site.”

On page 2, 7th paragraph, 3rd sentence, change “Another RTM suggestion was that the Board create a public master plan.” To “Another RTM suggestion was that the Board create an affordable housing plan.”

On page 2, 7th paragraph, 8th sentence, change “Mr. Bayne then listed the various resources that the Board of Selectmen used when the Municipal Use Analysis was done.” To “Mr. Bayne then listed the various resources that the Board of Selectmen consulted in determining the use of the property as affordable housing.”

On page 3, 3rd paragraph, 1st sentence, change “Ms. Sullivan said that she was working on drawing up an information sheet comparing Clock Hill Homes with the proposed project at 35 Leroy.” to “Ms. Sullivan asked if it would be possible to draw up an information sheet comparing Clock Hill Homes with the proposed project at 35 Leroy.”

On page 3, 6th paragraph, 2nd sentence, change “She went on to explain that there was a vote that was a sense of the meeting vote at the RTM about including affordable housing in the resolution.” To “She wen on to explain that there was a vote that was a sense of the meeting vote at the RTM meeting.”

On page 3, 7th paragraph, 1st sentence, change “nothing” to “everything”.

On page 3, 7th paragraph, 3rd sentence, change “Mr. Morton then said that Mr. Schoonmaker had spoke about returns on investments....” To “Mr. Morton then said that Mr. Schoonmaker had not spoken about legal requirements under 8-30G.....”

On page 3, 7th paragraph, 4th sentence, change “would” to “is”.

On page 3, 7th paragraph, 5th sentence, change “He then pointed out that there was \$7.7 million spent regarding over intensification in certain neighborhoods.” To “He then pointed out that there was \$7.7 million spent defending neighborhoods in Darien from over intensification.”

On page 3, 7th paragraph, the 6th and 7th sentences should be removed.

On page 4, 2nd paragraph, 5th sentence, change “Mr. Morton said that there had been a number of proposed amendments to 8-30G over the years, but the only amendment that succeeded was the amendment was for a moratorium.” To “Mr. Morton said that there had been a number of proposed amendments to 8-30G over the years, but the only amendment that succeeded was for a moratorium.”

On page 4, 4th paragraph, last sentence, change “the final decision” to “compromised decisions”.

On page 4, 8th paragraph, 2nd sentence, change “reconciliatory” to “conciliatory”.

On page 5, top paragraph, the 4th sentence should read: “Ms. Smith said that the new library project had been moved forward to the Planning & Zoning Commission.”

On page 5, top paragraph, 5th sentence, change “Committee” to “Commission”.

On page 5, 4th paragraph, 2nd sentence, change “Leroy” to “library”.

On page 5, 4th paragraph, the last sentence should be omitted.

On page 6, 1st paragraph, 2nd sentence, change “Ms. Santarella said that she would like to the project to move forward.” To “Ms. Santarella said that she would like to see the project move forward.”

**** MOTION PASSED UNANIMOUSLY.**

Executive Session Meeting of October 7, 2009

**** MR. BAYNE MOVED TO APPROVE THE MINUTES OF THE EXECUTIVE SESSION MEETING OF OCTOBER 7, 2009.**

**** MR. MORTON SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

FORTHCOMING MEETINGS

October 27, 2009	Planning & Zoning Public Hearing at 9:00 p.m.
October 27, 2009	Board of Education Regular Meeting at 7:30 p.m.
November 2, 2009	Board of Selectmen Regular Meeting at 8:00 p.m.
November 17, 2009	Board of Finance Regular Meeting at 7:30 p.m.
November 18, 2009	Parks & Recreation Commission Meeting at 7:30 p.m.

OTHER BUSINESS

(Any items added to the agenda require a two-thirds vote)

ADJOURNMENT

**** MR. BAYNE MOVED TO ADJOURN.**

**** MR. MORTON SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 9.55 p.m.

Respectfully submitted,

Carolyn Marr
Telesco Secretarial Services