MINUTES

TOWN COUNCIL MEETING

TUESDAY, NOVEMBER 25, 2008 AT 7:15 PM

RICHARD E. MASTRANGELO CHAMBER

ADMINISTRATION BUILDING

1. ROLL CALL: A regular meeting of the Town Council was called to order at 7:15 pm, in the Richard E. Mastrangelo Chamber, Administration Building. Present for the meeting were Councilors Stephen E. Corbett, Marilyn M. Petitto Devaney, Susan G. Falkoff, Jonathan Hecht, Angeline B. Kounelis, Vincent J. Piccirilli, Jr., John J. Lawn, Jr., Vice President Mark S. Sideris and Council President Clyde L. Younger. Also present were the Town Manager Michael J. Driscoll, Town Attorney Joe Fair and Council Clerk Valerie Papas.

2. PLEDGE OF ALLEGIANCE

3. ACCEPTANCE OF MINUTES: November 12th. Councilor Sideris moved the minutes as written, seconded by Councilor Piccirilli and adopted by voice vote.

4. PUBLIC FORUM: No comments noted.

5. PUBLIC HEARING AND VOTE:

A. Public hearing and vote on a proposed Order allocating the property tax levy among and between property classes for Fiscal Year 2009.

B. Public hearing and vote on a proposed Order setting optional tax exemptions for Fiscal Year 2009.

The Chair recognized the Town Manager who provided a brief overview of the various tax shifts and recognized Assistant Assessor, Joseph Malay. Mr. Malay walked the Council through an eleven page power point presentation entitled Fiscal Year 2009 Tax Classification (attached). Mr. Malay introduced Board of Assessor member, Richard Moynihan who was present in the audience.

Following the power point presentation, Mr. Malay reiterated that the Board of Assessors have recommended that the Council decrease the shift from 175% to 170% which would result in a more equal percentage change in tax bills for commercial and residential property owners.

The Chair stepped out of the Council Chamber momentarily and Vice President Sideris opened the hearing to the public. There being no comments, the hearing was closed.

Vice President Sideris opened the matter up to the legislative mode and the Chair returned to the Chamber.

Councilor Corbett stated that with respect to Chart B, a tax credit of $1,101 would be allowed for the owner occupied property. Councilor Corbett noted that the stated tax credit is misleading because without the exemption/ shift, the difference would be only $383.00 more.

Councilor Hecht, following up on the stated goal of the Board of Assessors, which was to equalize the tax increase across the tax classes, stated that the argument is compelling but that if you look over the time period from 2002 to present, overall property taxes on the commercial class has gone up 35% versus 40% for residential. The rate of increase has been less for the commercial class. Councilor Hecht asked if we shouldn't we be looking over a longer period of time rather than looking at one single year.

Councilor Hecht also asked if the Assessors have any evidence that we have become less competitive in the commercial area compared to other towns.

Mr. Malay stated that what the 170% does is it allows room in the future to raise the percentage again.

Councilor Kounelis, with respect to the Pilot Program, stated that the Tufts property in 2008 was the second highest paying property and is now tax exempt. She noted that in FY 08 the then owner, Perspectus, was paying 1.2 million dollars until Tufts purchased the property and is now paying $500,000. She stated that this is why we are looking at these changes and based on comparisons, commercial property will also pay $1,1000 less at the 170/20 shift.

Councilor Sideris asked if the recommended shift of 170% was more of a reflection of what all the other communities were doing.

Mr. Malay reiterated the Board's desire to achieve an equal rate for all the classes.

Councilor Long asked if a 25% shift was considered.

Mr. Malay stated that that would be a dramatic increase for the non owner occupied.

The Council President, regarding the sunset clause, asked that if we keep to current 175% will we have to go back to 170%.

Mr. Malay stated, no.

The Council President clarified that we can keep the 175% as a constant if we want to – with no adverse bearing in the future. Then why move down to 170%.

Councilor Long concurred and stated that as we have never gone above 175%, we are not mandated to go down to 170%.

Councilor Devaney stated that she respects the Board of Assessors but feels very strongly that this recommendation is not equitable.

Councilor Sideris stated that this is hurting everyone so it is not an easy decision to make. He asked for a compromise in the recommended percentages.

Councilor Piccirilli stated that the choices of what are before us; the recommended 170/20% is a $67.00 increase for occupied homeowners versus giving a tax break of $1,100 to a commercial property owner. The real issue is that it is hard to ask people to pay more taxes on their homes. He noted that we are trying to reduce the tax burden through economic development and we are struggling with the long term view; so he noted, it is hard; a tough call. He asked the Council to think about the long term and where we want to go in the future.

Councilor Devaney read a prepared statement against an increase in the residential tax rate (attached).

Councilor Hecht stated that the crisis is in residential home values and we should be doing what we can to lessen the burden on them. While, he noted, he is not glad to put the burden on businesses; if you look over the whole period since 2002, if we keep the shift at 175%/20% the increase will be equal over time.

Councilor Falkoff noted how the Board of Assessor's grappled with how to achieve equity; and noted that she is somewhat skeptical with the statistics as noted by Councilor Hecht.

Councilor Corbett noted that the recommendation of 170% makes a great deal of sense; and he understands mathematically the argument put forth by Councilor Hecht, but stated that most people incur costs day to day, month to month not over the long term.

Councilor Kounelis stated that she cannot support a tax increase on residential properties.

The Town Manager stated that this is a difficult policy decision and if the Council wishes, the matter can be continued to the next meeting to clarify any issues and inquire about other recommendations.

The Council President stated that he sees no compelling reason to change the shift and spoke in support of a vote to maintain the current shift.

Councilor Devaney stated that she needs no further information and is ready to take a vote to maintain the status quo.

Councilor Devaney moved to maintain the current tax shift of 175%/20%, seconded by Councilor Kounelis.

Councilor Long stated that maintaining the current rate is still increasing the tax base for residents.

Councilor Devaney stated that she wants to amend the motion to vote against the recommendation of the Board of Assessors.

The Chair stated that that is not the motion on the floor.

Upon a roll call vote the motion to maintain the current tax shift of 175%/20% was adopted by a vote of 6 for, 2 against and 1 abstaining with Councilors Corbett and Falkoff voting no and Councilor Devaney not voting.

Councilor Devaney asked what the increase is for residents in maintaining the current rate. It was stated that the increase is $92.00 based on an average property assessment.

The Town Manager provided a brief overview of the proposed Tax Exemption Order.

Councilor Kounelis stated that she will be recusing herself from the discussion and vote.

The Chair opened up the hearing to the public. There being no comments, the hearing was closed.

Councilor Sideris moved the approve the Tax Exemption Order, seconded by Councilor Lawn and adopted by unanimous roll call vote, with Councilor Kounelis recusing herself.

6. COMMITTEE REPORT:

A. Committee on Budget and Fiscal Oversight report/update on FY 2010 policy guidelines – Mark S. Sideris, Chair. The Chair recognized Councilor Sideris who read the Committee report (attached). Councilor Sideris moved to allow the Committee to conduct interviews with respect to the two audit proposals and make a recommendation to full Council, seconded by Councilor Falkoff and adopted by voice vote.

B. Committee on Personnel and Town Organization report on the Town's Manager's evaluation/goals/compensation and compensation of Council employees. The Chair recognized Councilor Corbett who read the Committee report (attached). Councilor Sideris moved to accept the report, seconded by Councilor Falkoff and adopted by voice vote.

Councilor Hecht thanked the Committee for their hard work on these important matters. He indicated that he would like to see the Personnel Committee assume the lead on the successor contract with the Town Manager but that the Council however should meet first to discuss their views.

Councilor Falkoff commented that the Manager had legal representation the last time the Council discussed this matter and wondered what the options are for the Council to have representation, if it is deemed necessary.

There was discussion on the Town Manager's contract and on the Personnel Committee's recommendation not to develop a policy regarding when the Manager should communicate information to the Council, in order to allow the Manager flexibility in exercising his judgment on this matter.

The Chair disagreed with the Committee's recommendation on the matter related to communication and stated that communication is essential and if the recommendation is not amended, he will not support the report. He asked that the report be sent back to Committee to flesh out more details on the first paragraph.

Regarding sending the report back to Committee, Councilor Sideris stated that there is a timing issue as the Council must give the Manager notice on retaining his services by December 31st.

Councilor Lawn stated that the Council previously agreed to notify the Manager 6 months in advance on retaining his services; secondly, Councilor Lawn indicated that there is such a broad list of circumstances that constitutes communication that it is impossible to provide such a list which is subjective to each Councilor.

Councilor Falkoff noted that we only have to let the Manager know by December 31st if we will retain him and that the Council will have 6 months to negotiate a new contract.

Councilor Corbett stated it is his understanding that with respect to honoring the 6 month period, it protects the Council regarding the termination policy. With respect to the communication matter, he noted that various instances occur regarding matters that happen within the town and expectations of communication vary between councilors.

The Chair stated that there should be a thresh hold that constitutes communication from the Manager to the Council. He noted that we specifically asked the Committee to report back on what that thresh hold is.

Councilor Devaney stated that the words "should not be developed" should be amended as there was no consensus on that in Committee. She stated that it should be opened up to the full Council for their opinion to determine.

The Chair asked that the report be separated by each item.

Councilor Lawn concurred with Councilor Devaney and stated that it would take 9 Councilors to come up with such a list of what constitutes communication. He offered that this should be part of the Manager's performance evaluation rather than trying to write a policy with nine viewpoints.

Councilor Hecht reiterated that the Committee's approach is good and should be adopted and resolved quickly with a meeting of the Council. The matter of the attorney is really going to depend on the issues that come up, he noted.

Councilor Lawn concurred with a meeting of the Council.

Councilor Falkoff supported the report with respect to the communication issue, and noted that policies that are put in writing should be clear and concise and that the communication issue is more of a judgment call.

Councilor Falkoff also stated that the Minutes of the meeting are a reflection of what discussions took place and that whether you disagree with the report really has no bearing on the minutes of the meeting.   She noted that the minutes should not be changed because someone disagrees with the report.

Upon roll call vote to accept the report, it was adopted by a vote of 8 for, 1 against, with the Chair voting no.

Councilor Sideris moved to go on record that the Council would like to renew the Manager's services, seconded by Councilor Falkoff and adopted by unanimous roll call vote.

Councilor Kounelis stated that with respect to communication, she has been quite vocal about it. The word "exercising judgment" does not always come into play. A thresh hold is hard to put in words. She noted that the Manager can try harder to communicate.

The Chair asked the Committee to flesh out that paragraph.

The Manager stated that he appreciates the vote to retain his services. He also indicated that on his evaluation form, 7 of 9 Councilors indicated that he met or exceeded expectations on communication. He further noted that sometimes items come up around town that even he may not know about.

Looking for excellence, the Chair stated, it's not too much to ask that this matter be fleshed out.

Councilor Sideris moved to refer the matter back to Committee and have them articulate a little better on why they took their position. No second.

Councilor Hecht indicated that he supports the Committee's recommendation and that perhaps if a particular event comes along regarding a communication matter, they should raise that point then and there and have the Council weigh in on it rather than create a list.

The Chair stated that that is reactive not proactive.

Councilor Falkoff moved to request Councilors to write further comments on this issue in their evaluation of the manager this year. No second.

Councilor Kounelis stated that situations occur but when they are repeated, it is embarrassing.

Councilor Sideris requested that the Council move on at this point.

7. MOTIONS, ORDERS AND RESOLUTIONS:

A. Resolution authorizing a transfer of $35,000 from the Fiscal Year 2009 Council Reserve to the Fiscal Year 2009 Fire Department Indemnification Account. The Manager provided a brief overview of the transfer. Councilor Devaney moved to approve the transfer of funds, seconded by Councilor Sideris and adopted by unanimous voice vote.

8. REPORTS FROM THE COUNCIL PRESIDENT

The Chair indicated that he is looking for a consensus on moving the Holiday Reception to Monday, December 15th at the Commander's Mansion. So moved by Councilor Sideris, seconded by Councilor Falkoff and adopted by voice vote.

The Chair indicated that it is his understanding that no work was done this Fall on sidewalks and streets and that the project has been postponed to the Spring. He asked where the monies are at this point and asked that the monies be moved back into Council Reserve.

The Manager indicated that following the loan appropriation, the Council met and discussed a policy on sidewalks and curbs. The Manager noted that the Council voted to establish a Working Group on this issue and that he supports not spending tax monies without having a policy on sidewalks/curbs and planting strips.

Councilor Kounelis stated that it was never communicated that all of the streets on the list for this season were placed on hold. She noted that overlays don't include sidewalks and strips.

The Manager stated that at the last meeting in June, it was communicated that not all the streets on the list were going to be done in calendar year 2008. He acknowledged the past practice with overlays, but noted that past practice may not be the case in the future or the recommendation that comes out of the Working Group and ultimately, vote of the full Council.

The Chair stated that we had a policy that departmental audits were going to be performed quarterly. He noted that since the Auditor has left the meeting, he will follow up on the matter in writing through the Manager or Council Clerk.

9. COMMUNICATIONS FROM THE TOWN MANAGER:

Last curbside pickup – December 5th; parking ban will commence on November 30th.

The Manager asked that a late agenda item be considered on an Environmental Energy item. So moved the Councilor Sideris, seconded by Councilor Falkoff and adopted by voice vote.

Regarding the composition of the Committee, he requested an amendment to the language in Resolution#138 that one member be from DPW and add by amendment "or one member from Purchasing". So moved by Councilor Sideris, seconded by Councilor Piccirilli and adopted by voice vote.

A. Request for confirmation of an appointment to the Board of Health. Unanimously referred to the Committee on Human Services.

B. Request for confirmation of reappointment and appointment to the Cable Access Corporation Board of Directors. Unanimously referred to the Committee on Education & School System Matters.

The Manager noted that notices were sent to various boards/commissions that their appointments have expired and will awaiting word on whether or not they want to continue to serve.

Following up on a request by a Councilor, the Manager indicated that a letter was sent to Ms. Michelle Tassinari asking for an update on the previous election recount matter.

The Manager provided an update regarding Verizon FIOS.

10. REQUESTS FOR INFORMATION

Councilor Devaney asked for an update on Recycling services.

Councilor Devaney asked for an update regarding various contractors regarding Recycling services.

Councilor Kounelis, in a follow up, thanked Superintendent Mee for his communications regarding salt sheds. She noted that she called various state departments on salt sheds but is not advocating for or against doors on salt sheds.

Councilor Sideris asked that the Manager provide in writing a report regarding the disposition of the installation of artificial turf.

11. ANNOUNCEMENTS – none noted.

12. PUBLIC FORUM – none noted.

13. EXECUTIVE SESSION: Councilor Sideris moved to go into executive session for the purpose of negotiating collective bargaining and will not return to open session following its adjournment, seconded by Councilor Piccirilli and adopted by unanimous roll call vote.

I hereby certify that at a regular meeting of the Town Council for which a quorum was present, the above minutes were adopted with attachment on January 13, 2009.