

**SELECT BOARD MEETING MINUTES**  
**Wednesday, November 28, 2018**  
**9:00 am - Stockbridge Main Fire House**  
**10:00 am - Stockbridge Town Offices**

**Present:**

Don Chabon, Chuck Cardillo, Terry Flynn, Ray Miyares, and Theresa Zanetti

**9:00 am - Main Street Traffic Study Site Visit** - Convene at Stockbridge Main Fire House - (Park at Town Offices)

Walk along Main with Traffic Consultant - Explanations, Q&A.

**Call to Order:**

Don called the meeting to order at the Fire Station. There walk commenced and there was no deliberation during the walk.

**10:00 am - Stockbridge Town Offices**

Don reconvened the meeting.

**Announcements:** Don noted that they just completed a walk of Main Street to look at the Traffic Study with the consultant. He said that they will have a public input session on the traffic study on Monday, January 7<sup>th</sup> at 7 p.m.

Don noted that he expects the Town Administrator back on December 11<sup>th</sup>.

Christmas Main Street is on December 1<sup>st</sup> and 2<sup>nd</sup>.

The next meeting will be on December 10<sup>th</sup> followed by a meeting on December 19<sup>th</sup>.

**Agenda:**

**Apparent Scam Considerations:**

Town Counsel Ray Miyares was present to discuss the inquiry of the Fire Department scam or questionable transactions which involved receipt of supplies in the Fire Department.

Ray began by stating that they are dealing with two companies: Pioneer Products and Noble Industrial Supply Corp.; both New York corporations. These are two 'foreign corporations' who both should be registered with the Secretary of the Commonwealth Corporation Division as required by law to conduct business in Massachusetts, which they have not done. If they wanted access to the State courts they would need to register.

He stated that the larger problem was that the companies were no strangers to Better Business Bureau complaints: records of story after story of towns, churches and other small non-profits who had fallen victim to the same scam. He continued that the process is that a call from the company offers a deal at a reasonable price. They get agreement and the shipment follows. When ready for the second shipment, additional charges higher than what quoted are incurred if the rest of the order is not completed. Therefore the only way to avoid increased charges is to keep accepting deliveries, which continues to snowball. Ray noted that what happened here in Stockbridge, which is all in his report, is that under Mass General Laws, for procurements for amounts less than \$10,000.00, we exercise prudent business judgement. For procurements in

excess of \$10,000.00 but no more than \$50,000.00, three written quotes are required. Some of the purchases should have gone through the three quote process while for others sound business practices were required. In Stockbridge, Jorja Mardsen, former Town Administrator was Chief Procurement Officer until her retirement in June of 2016. Elaine Markham, Town Accountant was delegated Chief Procurement Officer upon Jorja's retirement and Danielle Fillio, Town Administrator, now serves as Chief Procurement Officer since June 2017. All procurements of goods and services are to go through Danielle. In the past some Department Heads had been procuring department supplies without going through the Chief Procurement Officer. If this had been tightened up this might have been caught sooner. It did get caught when the bills became more noticeably large.

At some point Chuck said that he could not use anymore fire foam and to stop sending it. The company then offered other products; which seemed good at the time. Pioneer stopped sending foam and Noble started shipping the foam. The two companies seemed to be working in concert; although there is no proven connection. Ray stated that goods received were in excess of what the department needed and in some instances the pricing was not as good as what previously offered. Ray's estimate of what the Town was charged over the years was at least \$45,000.00. Of that amount it was noted that Ray advised that \$20,000 of overcharges not be paid and the product returned; calling it even.

Terry questioned if it was correct to say that the \$45,000 was a comparison of reasonable price vs what was paid, and if based on need could the impact be larger? Ray said that this was not necessarily so. If the town has more than needed it could be possible to sell or return the excess; it still has actual value. Ray indicated while the impact could be greater, it may not be depending on returns of supplies.

Terry stated that in the interim tax payer money was spent on product that was not needed and Ray said that was a correct statement.

Ray gave the following recommendations: 1) Remind Department Heads that all procurements must be conducted by the Town Administrator unless she delegates such authority to another employee. 2) To comply with the State Procurement Law of 30B, especially in regard to those in excess of \$10,000.00 and to get 3 proposals and documentation of procurements/contracts. 3) To authorize his office to contact these two suppliers advising them that their shipments are in violation of law, unpaid invoices will not be paid, and that the unwanted products must be picked up and returned.

Ray summarized that the Town had been victimized. It would be best to try to return the product and receive refunds for things purchased and not needed, to shore up the procurement process so that this does not happen again. He said that often small towns operate informally and usually that works but in this instance it did not; so lesson learned and we need to be more vigilant about following the proper procurement processes.

Terry asked if he was correct in saying that over a number of years, starting in 2015, we received 516 gallons of fire foam; fire wipes totaling 27, 648 (96 cases at 288/case; with shipping totaling \$29,957.45); 72 pails of truck wash; and 132, 50lb pails of ice away. Ray said that he believed that Terry was correct.

Don said that based on the report an inventory of material was not yet available. Chuck was asked for an accurate inventory and Chuck responded that he just needed to type it.

Terry said that they had the problem of what happened from Ray's report concerning invoices and approvals along with Ray's recommendations involving procurement process.

He said they also have a personnel issue and since Chuck is both Fire Chief and Selectman; if Chuck should recuse himself at that time.

Ray said that the process to discuss personnel issues could be to have an executive session, posted 48 hours in advance, and in addition send a letter to the employee involved letting him know the meeting is happening, he is entitled to be present and entitled to be represented by counsel.

Terry asked if Don and he were to discuss whether they want to have an executive session, should Chuck be a part of that discussion. Ray said that traditionally he would recuse himself. Don stated that they had just received the report. Ray said the difference between his draft and the final report was that they were puzzled over the invoices referred to as fire wipes versus hero wipes. Ray said that they received two invoices with the same invoice number; one saying "fire wipes" and the other "hero wipes". Assuming that they were all just fire wipes a fair market price was determined. If any are actually hero wipes, a cheaper product, the Town was overcharged.

Don moved to authorized Ray to contact the involved companies as specified. Terry seconded and approved.

Don said that Department Heads had already been reminded of procurement process and they will arrange for a re-evaluation of the procedures and once Danielle returns conduct whatever additional sessions as needed.

He said he would like the inventory list from Chuck.

Terry would like to have an executive session to discuss the personnel side of the situation and Don said that he would schedule it.

Ray said that the employee also has the right to have an open session instead.

Ray said that he would draft a letter for Chuck's consideration.

Don noted that the Town is not the only ones that this has happened to.

Ray said that it is his understanding that the Inspector General would be issuing a warning about these companies.

Terry said that they did not have much recourse as so many invoices were approved and Ray agreed but said in addition, most of the transactions were done orally, therefore not a written trail or records, therefore it would make it difficult to prove a case in court; a pattern of behavior over time with numerous phone calls involved; just not a sufficient record.

The report is a public record and would be passed out.

#### **Short Term Rental Committee - Select Board Discussion**

Don suggested that they form a task force of three people with each of the Selectmen appointing a person and begin the process on looking into the short term rental subject.

#### **Main Street Traffic Study next steps - Select Board Discussion**

Don said that the next step will be to hold a public input session which will be on January 7<sup>th</sup> at 7PM.

#### **Adjournment:**

With no further business, Don made a motion to adjourn. Terry seconded; all were in favor.