

TA Report 2.10.12

REPORT ON THE MASS MUNICIPAL ASSOCIATION CONFERENCE I went to Boston January 20 and 21 to attend a gathering of officials from many of the 351 cities and towns of the commonwealth. The MMA is an advocacy organization that lobbies for legislation that is of common interest to towns and cities. They support the front lines of government at the local level. It is a diverse organization but works diligently to find the common ground between us, their membership. They work hard, listening and identifying the hot topics and needs of the day.

On Friday the keynote speaker was Capt. Mike Abrashoff, who took command of one of the worst performing ships in the Navy, the USS Benfold. He turned it into the top performing ship in its class with the same crew in a short period of time. He attributed the turnaround to "listening aggressively," empowering the crew by talking and eating together, sharing ideas and observations. He discovered the crew spent more than half of the year painting and repainting the ship. The ships were rust buckets because they are made of iron. A crewmember came forward with a practical idea, if the ship was made of a different metal we would not have to spend half the year painting. Little by little they sourced and swapped out components greatly reducing time spent painting. This dramatic change in use of time and purpose was made possible by listening and acting on shared ideas.

The state officials shared good news on revenue figures but indicated that the new \$150 million dollars of chapter 70, education funding, would go to communities that fund below Foundation level, an ed reform formula calculation. Towns like ours such as Amherst, Pelham and Leverett all fund above Foundation so we will not be receiving an increase in assistance from the state. In the state budget, as in the local budget three years of underfunding, zero % increases, has worn programs thin. This year the finance committee is working to address requests for increases for those who have brought them forward. Discussions with departments continue.

U28 SURVEY is complete. Cliff Read reports that the four towns collectively gathered over 400 survey responses.

UPDATE ON THE DEBT EXCLUSION ELECTION FOR A PROPOSED NEW SHUTESBURY LIBRARY/FEBRUARY 6, 2012

On Thursday, February 2, 2012, The Massachusetts Board of Library Commissioners held a meeting in Boston. Grafton and Shutesbury both asked for extensions of time to confirm local funding for provisional grant award in the Mass Public Library Construction Program. Grafton, first on the agenda, was awarded an extension. Shutesbury was next on the agenda. Twelve people from Shutesbury were there. At the end of a long discussion a Commissioner said we have heard both sides. Our sense is the legal process be completed. The one thing you all have in common is you have all said you need a library. Your responsibility is to provide a library. Come together for your children and elderly. If granted, use your time to work together to allow us to give you this money. The Trustees unanimously approved the extension of time.

The latest step of the electoral process, which took place on Friday, was the filing of a lawsuit by the Friends of the Library, Plaintiffs vs. Board of Registrars of Voters of the Town of Shutesbury, Defendants, on Friday, February 3, 2012.

I know, as at every step, of this, people are assigning blame, on both sides. People are emotional and some are angry. When the provisional ballot was counted as a yes vote the Opponents hired a good lawyer and asked for a Recount. This time the Proponents have hired a good lawyer and filed a Complaint. At each step the Town is paying money for Town Counsel. The Town paid for the election workers at the Recount as well as Town Counsel.

A month ago, Town Counsel, said clearly, you are headed towards court no matter which way the provisional ballot or Recount goes. With a tie, it is inevitable.

SHUTESBURY GOES TO COURT

What does this mean? The Plaintiffs, Friends of the Library, are asking the court to consider their argument regarding three challenged votes. The Plaintiffs put forth that the Registrars erred in their decision regarding the three same challenged votes at the Recount the night of January 25, 2012.

The Defendants are named only in their official capacity, not personally. No claim for damages is made against any of them, or the town. No personal wrongdoing by any of them is being charged. The Complaint speaks only to the vote taken, that they erred in their official capacity by:

- a- not disqualifying two ballots
- b- disqualifying a challenged ballot

The Complaint asks “that the Recount results be declared null and void and that a Judgment enter affirming the new result as ordered by the Court. “

The Complaint is a public document and is available at town hall. Town Counsel referred to this Complaint as “nice,” because there is no wrong doing charged or monetary damages sought. The Complaint, or lawsuit, focuses on the decisions made by the Registrars regarding three ballots, one thrown out and two accepted. It is anticipated that a Judge will make a Ruling on this Complaint.

Only two parties are involved at this time, the Town and the Proponents of the Library Project. Attorney Michael Pill, who represented the Library Proponents at the Recount sent a copy of the Complaint to Shutesbury Town Counsel Donna MacNicol and to Attorney Alan Seewald, who represented the Opposition to the Library Project, at the Recount.

The tied vote is following a legal path toward final determination.

Other Questions:

Who paid for the Recount? Who pays for the Law Suit?

Town Officials have been working with Town Counsel since the election was deemed a tie on January 10, 2012. Town Counsel assisted with questions regarding the provisional ballot and a potential Recount. After the provisional ballot was determined to be a game changer, a tiebreaker for the Proponents, Opponents put in a formal request for a Recount. The Recount triggered the need for more legal guidance, the organizing of a Recount and the hiring of election workers. All election workers for the Recount had to be different people then the election workers who had worked the January 10 election. The cost for legal counsel for time before and during the Recount was \$700 and the cost of the election workers was \$224. Town Clerk reported that many of the election workers volunteered their time.

Now, Town Counsel is representing the Town by defending the Board of Registrars in the Complaint filed by the Friends of the Library. The Friends of the Library is a non-profit 501c(3) that raises money for the library.

Last Friday Town Counsel received the Complaint and reviewed the Complaint with the Town Clerk and the Town Administrator. The Town Clerk is gathering documents as required. A court date of February 14, 2 pm, has been set. Town Counsel anticipates she will receive a written notice of court dates, discovery, and documents. Arguments will be made. The Town will be billed for her time.

Volunteers Needed:

On the Personnel Board, Conservation Commission and Recreation Committee

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