

**MEETING MINUTES**  
Town of Heath  
**BOARD OF SELECTMEN**  
SAWYER HALL  
November 9, 2011

Called to order at 6:35 p.m. by Tom Lively with Brian DeVriese and Sheila Litchfield present. Also present, Town Coordinator, Kara Leistyna.

**Agenda was reviewed** – added E911 invoice and reimbursement, and announced Executive Session at end of meeting. Agenda for 11/14/11 meeting reviewed. Board will meet with E. Tougas to discuss reimbursement. If a future meeting is necessary, Town Accountant will be invited.

**Bay State Elevator:** Town Coordinator read letters to and from Bay State Elevator. Contract rolled over on 6/1/11. According to M.G.L. c30B, Ch. 12(b), “Unless authorized by majority vote, a procurement officer shall not award a contract for a term exceeding three years, including any renewal, extension, or option.” After conferring with Town Counsel, Town Coordinator requested with FRCOG that we bid out for a new contractor for elevator service/maintenance. Town Counsel added, “The statute further provides that any renewal option shall be at the sole discretion of the Town. Thus, a contract may not include an automatic renewal provision and may not provide for a term in excess of three years unless authorized by a vote of Town Meeting.” Counsel also stated in his response, “if this is a roll-over agreement, in my opinion it would not be valid. Please be mindful that contracts made in violation of G.L. c. 30B are not valid and no payment made be made under such contract (G.L. c. 30B, sec. 17(b)).”

The contract with Bay State also includes an indemnification provision. Counsel advised, “that an agreement to provide indemnification constitutes a contractual obligation for which there must be a supporting appropriation. Absent such an appropriation, this obligation would be violative of G.L. c. 44, sec. 31.” No such appropriation was authorized by Town Meeting.

Bay State has requested a full payment of outstanding invoices (\$5,834.64) but after Town Coordinator reiterated that the contract concluded on 5/31/11, they have asked for a payment in the amount of \$764.08 to end contract.

Town Coordinator will seek advice from Town Counsel on how to respond to Bay State Elevator and report back to Select Board.

**E911:** Tim Lively is working on grant for reimbursement of E911 services in the amount of \$1,500.00. Due to a delay in processing invoice there may be a delay in reimbursement. Town Coordinator will confirm with Tim on status of reimbursement.

Brian made a motion to adjourn the open meeting into executive session for the purpose of discussing the reputation, character, physical condition or mental health, rather than professional competence of an employee or dismissal of, or complaints or charges against a public officer, employee, staff member or individual and not to resume the open meeting. Sheila seconded. Roll call vote: Tom, aye. Sheila, aye. Brian, aye. The motion passed unanimously. Executive Session convened at 6:55 p.m.

Next meeting is scheduled for November 14, 2011 at 7:00 p.m.

Respectfully Submitted,  
Kara Leistyna, Town Coordinator