

**BOARD OF SELECTMEN  
MEETING MINUTES  
6/12/12**



The Board of Selectmen met in the Joseph F. Bilotta Meeting Room, Town Hall as scheduled with David Matthews, Steven M. deBettencourt, Paula Bertram, Tom Alonzo, Carl "Ernie" Sund and Town Manager Kerry Speidel present. Regular Meeting opened at 7:00 PM with the Pledge of Allegiance.

**PUBLIC COMMENT**

Mr. Matthews began the meeting by congratulating the 2012 graduating classes from Lunenburg High School and Monty Tech Regional Vocational School.

Mr. Matthews thanked the Police and Fire Chiefs for inviting the BOS to the Memorial Service at the Public Safety Building on Sunday.

**ANNOUNCEMENTS**

**APPOINTMENTS**

**CURRENT BUSINESS**

- 1. Ratification of Town Manager's Appointment of Fire Chief** – Fire Chief Scott Glenny introduced Deputy Chief Patrick Sullivan to the BOS. He stated that Mr. Sullivan has been a member of the department for 28 years and will make a great Fire Chief. The BOS welcomed Mr. Sullivan to the position.

Ms. Speidel read the notification of the appointment of Mr. Sullivan to the position of Fire Chief for the Town of Lunenburg into record and requested that the BOS ratify this appointment at this meeting. The appointment is effective as of August 1, 2012 and is being issued so there will be a smooth transition for Fire Chief Scott Glenny. Mr. Sullivan will become a full time employee effective July 15, 2012.

Mr. Alonzo motioned to vote to approve the appointment of Patrick Sullivan to the post of Fire Chief effective August 1, 2012. Mr. deBettencourt seconded. On vote, motion carried, 5 in favor, 0 opposed.

**APPOINTMENTS/RE-APPOINTMENTS/RESIGNATIONS** – Taken out of Order

- 1. Rescind appointment of Laura Caron-Gustus as Acting Treasurer and/or Acting Collector in Accordance with MGL Chapter 41, Section 40** – Ms. Speidel reminded the BOS that at last week's meeting, she made mention that the acting Treasurer/Collector would not be the Signer on the 2012 bond issue due to the fact that she was not qualified to do so because she did not provide bond to the town within the time period that is required by MGL Chapter 41, Section 40. MGL requires that an acting Treasurer/Collector file a bond within 10 days of appointment. She said that Laura Caron-Gustus was appointed at the 12/20/11 BOS meeting and has not provided the bond in a timely manner. Ms. Speidel has followed up on this matter with the Town Labor Counsel and their opinion, which was circulated to the BOS, was that particular section of MGL states that if the bond is not provided that the board shall rescind the appointment.

Mr. deBettencourt asked the Chair whether or not this was a personnel issue and if the individual in question has been properly served and invited to do this case. Mr. Matthews replied that this was not a personnel issue and that the BOS are working within Massachusetts State Law which states that "you shall rescind the appointment".

Mr. deBettencourt stated that under the law you have to work with "due process" and hear both sides of the story. He said that the emails were going back and forth between the BOS this day and that there is a lot to this matter that people are not seeing. He believes that this is a personnel issue and that Ms. Gustus should be served and have the chance to be heard.

Ms. Speidel said that Ms. Gustus was notified yesterday that the item would be included on the agenda.

Mr. deBettencourt said that he did not have a copy of that notice and asked if he could have that read into the minutes.

Mr. Alonzo said that the agenda was duly posted and that he did not think that any appointment or re-appointment requires an invitation because this is not a disciplinary action. He also mentioned that he believes that Mr. deBettencourt may have a conflict of interest regarding this matter due to the fact that he works for the individual's husband in the Town of Lynnfield and believes that Mr. deBettencourt should recuse himself from this discussion.

Mr. deBettencourt responded that he did contact the State Ethics Commission and they said it was not a conflict of interest. He stated that he also filed a disclosure with the Town Clerk's Office.

Marc Terry, Labor Counsel from Mirick O'Connell, was present and stated that to be sure there was not a conflict of interest concerning Mr. deBettencourt's employment, he had suggested to Ms. Speidel that she contact Mr. deBettencourt and advise him to contact the State Ethics Commission and obtain some binding advise from them on this matter.

He said that he respectfully disagrees with Mr. deBettencourt's opinion about "due process" concerning this matter saying that the statute says there is an appointment that was made and the person who was given that appointment has 10 days to take a certain action and if that action doesn't occur then this Board, as the appointing authority, shall vacate or rescind it. He said that it is specific, it is a "shall" not a "may", a "will", or a "you should."

Attorney Terry said that the only place that due process rights apply is under the Town Charter, which talks about a different set of appointments that are for a permanent person and do not apply to this type of scenario which talks about operation of statute. He explained that this situation does not call for going into Executive Session for discussion.

Mr. deBettencourt vehemently feels that they should wait another week to give the individual, who is a 28-year employee, a chance to address this matter and thinks that this should not be a problem and remained concerned that this has gone on for 6 months. His thoughts were that this discussion should take place in public and not through emails.

Ms. Bertram questioned the Chair about Mr. deBettencourt getting a written statement from the Ethics Commission concerning his participation in this matter. Mr. Matthews stated that Mr. deBettencourt had assured the BOS that he got a positive response and he is more than willing to work off of that but would still like to see a letter.

Ms. Bertram asked Mr. deBettencourt what his actual recommendation was and he stated that he would like to table this for a week.

Mr. deBettencourt asked Ms. Speidel if the individual was notified to have this bond within 10 days. Ms. Speidel responded that she did not specifically notify her that she was required to have a bond but has written confirmation from her that she was aware at the beginning of January of the requirement to have a bond. She also stated that the BOS has seen that communication and that the individual has acknowledged that she was aware of her responsibility.

Mr. deBettencourt asked Ms. Speidel what the individual's response was for not having the bond. Ms. Speidel replied that her response was that it was Ms. Speidel's fault that she did not have the bond and that Ms. Speidel had told her that she was not required to have a bond.

Ms. Speidel went on to say that she herself has a long history of being a Treasurer/Collector and that it is inconceivable that she would tell her that she is not required to have a bond. She also stated that the individual had filled out an application for the bond last week but it was done incorrectly.

Mr. Matthews asked Mr. deBettencourt if he knew who was in charge of these bonds for the last 28 years to which Mr. deBettencourt replied the Selectmen's office (Ms. Speidel & Ms. Gustus). Ms. Speidel spoke and said that she would like to respectfully add that it was Laura Caron Gustus who has managed that process for the entire time that Ms. Speidel has been employed by the town.

Mr. Alonzo moved to rescind the appointment of Laura Caron Gustus as acting Treasurer/Collector in accordance with MGL Chapter 41, Section 40. Ms. Bertram seconded.

Mr. Sund spoke in saying that he was troubled by this matter and needed more information on the matter. Mr. Sund abstained from the vote.

On vote, motion carried, 3 in favor, 0 opposed, 1 abstention (Sund)

Mr. deBettencourt recused himself from participating in the vote.

Discussion: Mr. Matthews said that if we had a bond issue prior to June, we would have known about this situation sooner. He feels that in general this town should expect more from its department heads then to have the expectation that the Town Manager will follow up on each and every requirement of employment for the Town of Lunenburg, especially when we are dealing with the amount of experience that we do have in town.

Ms. Speidel stated that she wanted to be perfectly clear for the record and the public that this issue was brought to the attention of the BOS as soon as it was brought to her attention. This is not a situation where she was aware of this in January and decided to bring it to the BOS attention just last week. Ms. Speidel said that she was made aware if it as a result of a request for documentation through the General Obligation Bond issue and she was not aware of it before. She said that she had no reason to believe that someone who managed this process, did not follow through on obtaining a bond and if we didn't have this bond issue it would have come to her attention either this week or next week because they are getting ready for the new fiscal year.

Ms. Bertram stated that based on Counsel's opinion and MGL this is a required action by the Board. She feels that this is a difficult situation and feels that before action is taken on appointing another Treasurer/Collector the BOS should afford the individual the opportunity to speak before the board, if she so chooses and would like to open this up for discussion with the BOS.

Mr. Alonzo agreed with Ms. Bertram. Mr. Matthews stated that this has gone on long enough and would like to move forward. Ms. Bertram said that she has concerns to why the individual did not follow through with obtaining the bond.

Attorney Terry was asked whether or not this could be done in public session to which he responded if this is an appointment issue, it needs to be discussed in open session and that it would not justify being in Executive Session. Attorney Terry suggested appointing a temporary/acting Treasurer/Collector until they can re-visit this issue next week.

Mr. Matthews suggested that the BOS appoint Ms. Speidel as acting/temporary Treasurer/Collector. Mr. Alonzo raised concerns about Ms. Speidel's contractual obligations.

Attorney Terry said that a conflict of issue situation could arise if this was done. He said that it would be subject to negotiation with Ms. Speidel's contract to incorporate the duties and could be done.

Ms. Speidel stated if it was the intent of the BOS to push this out for just a week to see if the individual wants to come to speak before the BOS, it didn't make sense to appoint her as temporary Treasurer/Collector where she will need to go through the process of obtaining a bond. She said she would be happy to serve in the capacity on a

temporary basis for no additional compensation. She feels that the Assistant Treasurer/Collector, who is already bonded, should be appointed.

Ms. Bertram motioned to appoint the Assistant Treasurer/Collector on a temporary basis for a period of one week from today.

Discussion: Mr. deBettencourt questioned why this appointment could not be made for a longer period of time, to a period of 1 month, in order to find a new Treasurer/Collector.

Ms. Bertram stated that she feels the Town Manager has more experience in the role of Treasurer/Collector but would like to appoint the Assistant Treasurer/Collector for one week to allow the individual involved to come to speak before the BOS. If the individual decides not to come before the BOS then they need to appoint an acting Treasurer/Collector and she prefers to appoint the Town Manager subject to changes in her contract and then begin the process of going out to find a new Treasurer/Collector.

Ms. Bertram motioned to appoint the Assistant Treasurer/Collector for a period of 1 week. Mr. Alonzo seconded. On vote, motion carried, 5 in favor, 0 opposed.

## **2. Review proposed Electrical Permit Fee for Solar Arrays – Continued to a future meeting.**

**3. Execute Deed & Land Development Agreement, Jones House** – Ms. Speidel stated that the next item on the agenda is to execute the deed & land development for the Jones House. She said that there is an easement which is not on the agenda and that there is no final wording on the easement yet. Ms. Speidel explained the 4 parts to the sale of the Jones House which were the Purchase and Sales agreement, Restrictive Covenant (Historical Committee has approved), the Deed and the Land Development agreement. She then presented the Quick Claim Deed and Land Development agreement for the boards approval.

Mr. deBettencourt questioned why the easement was not ready and how this can be signed without it. Ms. Speidel responded that the easement is separate, was approved at Town Meeting, she is waiting for proof of insurance to be provided by the buyer, and she plans on holding the easement papers until proof of insurance is provided. The easement is strictly for the right to pass and re-pass.

Ms. Bertram motioned to execute the deed & land development agreement for the Jones House. Mr. Sund seconded. On vote, motion passed, 5 in favor, 0 opposed.

## **4. BOS Policies & Procedures – Not Discussed**

### **5. Minutes/Warrants/Action File Issues –**

Minutes: None

Warrants – W71-12 \$305,065.80

Action File Issues – None

**7. Committee Report** – Mr. Matthews reported that the School Committee met last Wednesday and began exploring the possibility of consolidating into 3 buildings down from 4. There will be another meeting tomorrow night at the High School Auditorium which will be televised. He suggested that if the public has questions to either attend or watch on the T.V.

Planning Board will be meeting tomorrow night at the Ritter Building.

### **8. Department Reports - None**

**9. Town Manager Reports** – Ms. Speidel read a notification from the Lake Shirley Improvement Corp. regarding aquatic treatment at Lake Shirley on Tuesday June 19<sup>th</sup>.

**OLD BUSINESS** - None

**EXECUTIVE SESSION** - None

Being no further business, Mr. deBettencourt motioned to adjourn the meeting. Ms. Bertram seconded. On vote, motion carried, 5 in favor, 0 opposed.

Meeting ended at 7:47 p.m.

**UPCOMING MEETING SCHEDULE**

June 19, 2012

July 3, 2012

July 10, 2012

July 17, 2012

July 24, 2012

*Respectfully submitted,  
Susan Doherty, Recording Secretary  
Board of Selectmen*