

**BOARD OF SELECTMEN
MEETING MINUTES
11/13/12**

W/EG — — *SMA*

The Board of Selectmen met in the Joseph F. Bilotta meeting room at Town Hall as scheduled on 11/13/12. David Matthews, Steven M. deBettencourt, Carl (Ernie) Sund, Paula Bertram, and Town Manager Kerry Speidel present. Not present Tom Alonzo. Regular Meeting opened at 7:00 PM

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**LUNENBURG TOWN
CLERK OFFICE**

7:00PM PUBLIC COMMENT

Mr. Matthews expressed his appreciation for all Veterans who are currently serving or have served the country.

Mr. Matthews stated that there was a large turn out for the recent elections and thanked the election workers and the Town Clerk's office for dealing with the flow.

Dave MacDonald, 155 Island Road, presented his plan for decorating the Upper Common in the town center for the upcoming Holidays. The large pine tree in the common along with the shrubbery, maple trees and the granite Lunenburg sign will be decorated with lights. Mr. MacDonald spoke to the businesses in that area and they had no objection to this project. He would like to coordinate this with the tree lighting ceremony on December 6th. Also a "Letters to Santa" mailbox will be placed at this area where children can drop their letters which will be given to the Lunenburg Ledger for publication. Dave thanked Greg Bingham for the mailbox donation and stated that they will be looking for donations from businesses. All donors will be thanked on a sign which will be placed on the Upper Common.

Mr. MacDonald has spoken with Unitil to see if a discount can be given due to the fact that the lights are LED and also with Home Depot for discounts on the purchase of lights. DPW has also been contacted and are willing to help with this project. There is a power source on the Upper Common that can be used for these lights.

Ms. Bertram asked if a vote was necessary for approval of the lighting. Ms. Speidel replied no, it does not affect any right of way and does not need approval.

The BOS thanked Mr. MacDonald for spearheading this endeavor.

Mr. MacDonald thanked the BOS for allowing the Salvation Army to conduct their "Boot Drive" and stated that "Their need is greater than ever".

Mr. MacDonald thanked Jack Rabbit for speaking about the intersection on Mulpus Road & Townsend Harbor Road at last week's BOS meeting. He hopes that the BOS can fix the problem at that area.

Donna Cameron, 919 Mass Ave, spoke to the BOS of her concerns with the abandoned gas station next to her property on Mass Ave and a broken plate glass window at that location that is dangerous. She does not know who the owner is but would like someone to take care of it before someone is hurt.

Ms. Speidel stated that it would be the responsibility of the owner to board up the window but the owner is no longer interested in that property. There are several liens on that property but the Town cannot enter private property without permission from the owner.

Ms. Bertram questioned why a crew from the Town could not go onto the property to board it up similar to what was done to a property on Leominster Rd. She feels that this is a dangerous situation which needs to be addressed.

Ms. Speidel stated that she will speak to the Building Inspector to see if they could go through the same process on this property as well.

Ms. Bertram stated that she thought the BOS had appointed a committee to look at abandoned properties but the Town Manager had told her it was specifically for the Leominster Rd. property. Ms. Bertram would like to revisit this item at another BOS meeting to compile a list and appoint people to the committee to look at these properties.

Karen Ullo, who is a member of the Commission of Trust Funds, asked if the repairs could be funded through the Trust Fund. She said that the stipulation is that monies can be used to beautify or maintain property within 1 mile of the center of town.

Mr. Sund stated that he was not sure if those funds were open to something of this nature. He feels the key thing to this is not the funds but rather the access to the property which is private property.

ANNOUNCEMENTS

APPOINTMENTS

- 1. 7:00 p.m. Request to waive Right of First Refusal, land located off Leominster-Shirley Road, owned by Padula Lunenburg, LLC** – Mr. Padula was not present at this meeting so Ms. Speidel explained to the BOS the request made by Padula Lunenburg LLC to waive Right of First Refusal for their land located off of Leominster Shirley Road. The property is identified as map 146 parcel 7 and map 146 parcel 5. Mr. Padula had attended prior BOS meetings indicating his intent to remove this property out of Chapter 61(a) designation in order to sell it for private purposes. He had presented a Purchase and Sales agreement to the BOS for part of Parcel 7 and for Parcel 4 which is not currently in Chapter. He is looking for the BOS to exercise the Right of First Refusal on the portion of Parcel 7 which is included in the Purchase and Sales Agreement. Mr. Padula will not be filing for Chapter 61(a) designation for these properties in FY2013 because his intent is to sell the properties.

Ms. Speidel stated that the Planning Board had met earlier this evening and found that they do not believe that the Town should exercise their Right of First Refusal. The Conservation Committee met last week but the Town Manager has not received a statement from them regarding their findings on this matter but she believes the findings would be the same.

Mr. Matthews stated that he had told Mr. Padula at a previous meeting that due to the fact that this land is some of the most developable land in town he does not see any reason why the Town would want to buy it. The BOS agreed with Mr. Matthews on that issue.

Mr. Sund moved to waive the Right of First Refusal for land located off of Leominster Shirley Road, owned by Padula Lunenburg, LLC. limited to what is presented to the BOS. Mr. deBettencourt seconded. On vote, motion carried, 4 in favor, 0 opposed.

- 2. 7:00 p.m. Request for Alteration of Licensed Premises, The Harley House, 909 Massachusetts Avenue**
Mr. Matthews read the Notice of Public Hearing for the Request for Alteration of Licensed Premises for the Harley House located at 909 Mass Ave. This application is being submitted by Mary L. Padula DBA The Harley House.

Gayle Padula, 909 Mass Avenue, spoke on behalf of Mary Padula, explaining that they would like to relocated the existing bar at this property because it currently creates a bottleneck due to its location by the kitchen and the dining room where people congregate, which causes a maneuverability problem for the staff and also its current location sits on a slab which causes a drainage problem. If it is moved into another room it will allow easy access to plumbing, electrical, drainage etc.

Mr. Matthews questioned if there were any other major changes to hours or seating being done. Ms. Padula replied no although they did reverse a door with a building permit so that there was another legal exit.

Ms. Bertram questioned if this has already gone to the Building Official. Ms. Padula replied that he had provided the Building Permit and everyone has signed off on it including the Board of Health, although they have not come for a final inspection as of yet.

Mr. Matthews asked if any abutters were present to speak on this matter.

Lois Filiaw, 919 Mass Avenue, stated that she was concerned because the Notice states that there is a change in the license. Mr. Matthews explained to her that whenever a license holder makes a change to their facility they have to report to the BOS and the ABCC what is going on to get approval to make sure it is still in compliance.

Ms. Filiiau presented a list of questions for Ms. Padula to answer concerning her establishment.

Ms. Filiiau asked if this new venture was being built as a Sports Bar, what are the hours of operation, what days of the week will it be open, and are there T.V.'s

Ms. Padula answered that the hours of operation are the same as the restaurant, which is Wednesday, Thursday, Friday, Saturday day & evening, and Sunday during the day, which is permitted through the Special Permit. She said that there will be T.V.'s which are already in place in the existing bar.

Ms. Filiiau asked if there would be live entertainment to which Ms. Padula replied no except perhaps a piano or bagpipe player.

Ms. Filiiau asked if there was an outdoor designated smoking area. Ms. Padula replied yes which is located on the other side of the building from Ms. Filiiau's house, although they have had a hard time keeping people from going to the other side to smoke but will try harder to prevent this from happening.

Ms. Filiiau asked how many people will the bar seat or hold. Ms. Padula replied that the bar will seat 10 people along with some tables.

Ms. Filiiau asked if the neon lights will be secluded towards the back of the building. Ms. Padula replied that as far as she knows the only neon light she has is the open sign and there are no plans to add any to the bar.

Ms. Filiiau asked what area of the building will be receiving liquor and beer deliveries. Ms. Padula replied that they will be received in the back of the building.

Ms. Filiiau asked the BOS if the Harley House should sell, does all licenses and permits transfer to a new owner? Ms. Speidel replied no they don't, new owners need to come in and apply for licenses.

Ms. Filiiau went on to say that a liquor license or bar is not a permissible use in a "Limited Business Residence District". Therefore the liquor license held by the Harley House should only be used as an accessory to the allowable and permitted current use of the property and under those provisions. Her understanding is that a liquor license was issued to the Harley House for the purpose of serving beverages to dinner guests and function patrons in order to support the restaurant and function hall. Ms. Filiiau is concerned that this will evolve into a full fledged bar instead of an extension of a restaurant/function hall, which is what she believes was the intent of the main liquor license.

Ms. Bertram stated that in looking at the plan there is no expansion of seating or expansion of the restaurant and this is just relocating the bar from its current location to another location for a number of reasons as the applicant explained. Given the fact that the Building Official as well as others have looked at it, she has no problem with the request as presented.

Mr. Sund stated that he does not see a major problem with it and the Harley House has been a good asset to the town and does not see any expansion of what the current use is.

Ms. Cameron questioned what the original bar seating was. Mr. Sund replied that it was about 8 or 9.

Ms. Cameron stated that she had been there several times and was almost positive it was about 4. She went on to ask what license does the Harley House hold currently, is it doing business as a Restaurant, a Bed & Breakfast, a Tavern or an Inn. Ms. Padula replied that it is considered an Inn which allows them to serve food to the public, have private functions and have a Bed & Breakfast, which they are not currently doing until renovations are done to bring it up to code.

Ms. Cameron spoke in agreement that the Harley House for functions is beautiful but remains concerned about the permit for operating as an Inn where people stay overnight.

Ms. Speidel stated that it was her understanding that the Harley House is zoned and licensed to be a Bed & Breakfast for 3 rooms but she is not currently doing this.

Ms. Bertram stated that the current question which has been raised is a Zoning question and what is before the BOS is the relocation of the bar within the existing license that is currently held which has to be approved by the ABCC, its been approved by the Building Official as well as other Town Officials and meets compliance from a building standpoint and she has no problem with the relocation of the bar as proposed.

Mr. Matthews asked if there was any more public comment on this matter to which there was none.

Mr. Matthews moved to close the Public Hearing. Mr. Sund seconded. On vote, motion carried, 4 in favor, 0 opposed.

Ms. Bertram motioned to approve the relocation of the bar as proposed on the plans submitted for the alteration of License Premises at 909 Mass Ave. Mr. deBettencourt seconded.

On vote, motion carried, 4 in favor, 0 opposed.

Mr. Matthews stated that if the abutters feel that there is problem with the Harley House being properly zoned, then they should contact the Zoning Official with their concerns.

3. 7:15 p.m. Annual Classification Hearing – Harald Scheid, Principal Assessor for the Town of Lunenburg was present to speak on the Annual Classification Hearing. Mr. Scheid stated that this is his 18th Classification Hearing with this BOS. He went on to say that his presentation has not changed much in 18 years and that the message is the same which centers around 1 question which is does Lunenburg levy one tax rate across all classes of property or does it adopt a split tax rate where commercial/industrial property owners are assessed at a higher level to yield a tax reduction on the residential side. He explained that the town's commercial/industrial base is so small that you would have to significantly increase taxes to them to yield a very small break on the residential side.

Mr. Scheid went on to explain that you would have to raise the commercial/industrial rate by 10% in order to drop the residential rate by 1%.

Mr. Scheid stated that most residents will see an assessment almost identical to last year's and that there are no indications that a further reduction in property value will be necessary. Any drop in value would take place for older homes that are in poor condition whereas the top of the list would most likely be occupied by waterfront homes that seem to hold their value in any market.

Mr. deBettencourt motioned to retain the single uniform tax rate for the Town of Lunenburg for this year. Ms. Bertram seconded. On vote, motion carried, 4 in favor, 0 opposed.

Mr. Scheid stated that probably at the next BOS meeting he will have the LA5 document which the BOS will need to sign.

Mr. Sund thanked Mr. Schied along with the other board members for the work they perform through out the year.

CURRENT BUSINESS

2. Minutes/Warrants/Action File Issues

Minutes: 10/16/12 5/3/11

Warrants: 11/3/12 #27-13 \$210,487.89

Action File Issues: Ms. Bertram requested an update on when Koplemen & Paige will be coming to Lunenburg to do a Workshop regarding the Open Meeting Law. Ms. Speidel replied that she had asked the Town Clerk to coordinate this and she will follow up with her on the status.

3. Committee Reports – Mr. Sund reported that the Cable Committee is meeting this evening.

4. Town Manager Reports or Department Reports – Ms. Speidel reported that several meetings ago Asian Imperial came before the BOS to request a transfer of their License from their current location to their new location. They had asked for the transfer to become effective as of January 1, 2013 which is not typical procedure and the ABCC is asking for a letter from the BOS stating that they had voted to make the transfer effective on or about January 1, 2013. The BOS also need to sign the original transfer of the application.

Ms. Speidel spoke about the intersection of Townsend Harbor Rd. and Mulpus Rd. saying that she has not had a chance to review all of the Capitol projects that have been submitted to the Capitol Committee. She said that the DPW Director advised her that he did submit a request for FY2014 for \$35K for that intersection as part of his Capitol Plan which was based on two engineering estimates that had been received. He also submitted for intersection improvements for

Goodrich St. and Lancaster Avenue. Ms. Speidel feels it is fairly unlikely that improvements will be able to be made to both projects in the same year due to the fact that it is too early in the year to see what will be set aside for capitol. Ms. Speidel said that she and the DPW Director will be meeting with an engineer to identify any grant opportunities that are available.

Ms. Bertram stated that there are number of roads in Lunenburg that are eligible for Federal funds which the Town has not taken advantage of through the MPO process. Ms. Bertram said that as Sub Region 3 Representative she will be reaching out to other communities and that Townsend Harbor Rd. is eligible for this funding because it connects to another municipality as well as all bridges. The first step in the process for applying for funding is to fill out a Project Need Form and submit it to our Sub Region 3 at MASS DOT for review then it would go onto the next stage. She would also like to look at the Pavement Management plan to identify any projects on that plan where they can start that process also. MRPC has incorporated a component to do an Outreach Program for roads within the Montachusett region so people will learn how to get projects incorporated in the TIP.

Mr. Sund asked Ms. Bertram if Scenic Roadways were included in this program. Ms. Bertram referred him to MRPC website to the program called Mr. Mapper and said that Leominster Rd. and Lancaster Rd. are both eligible because they connect to other towns.

OLD BUSINESS -

APPOINTMENTS/RE-APPOINTMENTS/RESIGNATIONS

PUBLIC COMMENT

EXECUTIVE SESSION – Mr. Matthews stated that the BOS will be going into Executive Session not to return citing MGL Chapter 30A, Section 21 (a) 3, to discuss strategy with respect to collective bargaining or litigation, if an open meeting may have a detrimental effect on the government's bargaining or litigating position, and the Chair so declares. Ms. Bertram moved to go into Executive Session. Mr. deBettencourt seconded. The board voted unanimously to adjourn regular session at 7:55PM.

UPCOMING MEETING SCHEDULE

November 20, 2012

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