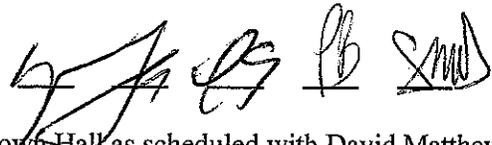


**BOARD OF SELECTMEN
MEETING MINUTES
12/11/12**



The Board of Selectmen met in the Joseph F. Bilotta meeting room at Town Hall as scheduled with David Matthews, Tom Alonzo, Steven M. deBettencourt, Carl (Ernie) Sund, and Paula Bertram. Not present was Town Manager Kerry Speidel.

Regular Meeting opened at 7:00 PM

7:00PM PUBLIC COMMENT

Mr. Matthews thanked the public for coming out for the Tree Lighting Ceremony and also thanked all who were involved in the decorations at the Upper Common. He hopes that this tradition will be carried on in the future.

Mr. Sund added that the Local Cable Access Channel had recorded this event and that it can currently be seen on Facebook.

ANNOUNCEMENTS

APPOINTMENTS

CURRENT BUSINESS

1. Voluntary Toll Booth, Salvation Army, December 15, 2012 – Mr. Alonzo moved to approve the Voluntary Toll Booth request from Salvation Army to be held on December 15, 2012. Mr. Sund seconded. On vote, motion carried, 5 in favor, 0 opposed.

2. Review and/ or Execute Power Purchase Agreement and PILOT Agreement for Solar and Mass PV1 and/ or PILOT Agreement for EPG Solar – Mr. Matthews stated that there was no new information regarding these items. He stated that due to some newspaper articles there were people concerned about the Developer selling credits to other communities. He reminded the public that there was a potential for more credits being available than the Town could use directly and they are trying to work with Unutil to get the cash value of the credits back to the Town for maximum use to the Town and tax payers. This process is still in its early stages, nothing has been decided, and our goal is still to get the maximum benefit for the tax payers. There will be no PILOT's without PPA agreements. PILOT's are being written that they are not a tax benefit to the developers and there is not a tax break unless there is potential for a future Override. These projects will be fully taxed at the real value of the property.

3. Review Policies & Procedures- CORI Policy – Mr. Matthews explained what the CORI (Criminal Offender Record Information) procedure was and stated that the BOS has never had a CORI Policy in place to guide decisions and discussions.

Mark Terry, Labor Counsel for the Town of Lunenburg, was present to assist and answer questions regarding the draft CORI Policy which had been distributed to the BOS. He explained that there have been changes regarding the CORI statute, one being that all employers, not just municipalities, are required to adopt a CORI Policy if they fall into a certain category which is defined as running five CORI checks a year. This policy will apply to individuals who are seeking employment with the Town, volunteers, internships, and to those who are applying for licenses.

Mr. Terry said that there is a "model policy" which the State has provided, to which Labor Counsel has suggested some modifications. The change occurred in Paragraph 3B which made reference to a conditional offer of employment, which has been removed. The change in the law was designed to preclude employers of all kinds from trying to make decisions based on conviction information.

Discussion ensued regarding the issue of Executive Session to discuss licensee CORI findings and if the licensee would be allowed into Executive Session for discussions. Mr. Terry stated that you could go into Executive Session under Reason 7 of the Law to discuss things that are considered confidential by State Law because the Statute itself precludes

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the general dissemination of the information. Under this provision of the law the individual does not have a right to be present in that discussion. Although it is not necessary, Mr. Terry suggested that it might be wise to invite the individual into Executive Session so that the BOS are sure that they have the correct information regarding the individual.

Also discussed was when the time is appropriate to run a CORI check. The design of the policy is first to adopt a policy that complies with the state requirements, secondly is the implementation of the policy which will include some of the procedures that are adopted and the statutory consideration of when it is required and when it is not, and third is a general policy judgment as to who is making the decision, what the decision is and why the decision is being made. Mr. Terry also recommended that consistency is necessary when running CORI checks on employees. He also called to the board's attention that the policy calls for the Town Manager to be the person adopting the administrative procedures.

Board members were in agreement that they need to adopt procedures fairly quickly and that they need to specify what circumstances determine what their procedures will be regarding CORI checks.

Ms. Bertram moved to approve the CORI Policy as written. Mr. deBettencourt seconded. On vote, motion carried, 5 in favor, 0 opposed.

4. Minutes/Warrants/Action File Issues

<u>Minutes:</u>	12/4/12		
<u>Warrants:</u>	12/10/12	W# 12P13M	\$8059.07
	12/11/12	W# 33-13	\$288,709.18

Tax Classification Document - *Signed*

Action File Issues: Ms. Bertram pointed out that the flag in the center of Town is not lit as is required by law and said that it needs to either be taken down or lit at night. Mr. Matthews is looking into this matter.

Mr. deBettencourt inquired about the unlit flag in Veteran's Memorial Park. Mr. Sund replied that all of the flags will be taken down for the winter but that they are lit when they are up with a solar light.

5. Committee Reports – Mr. Alonzo reported that he participated in a conference call regarding the Mass Broadband fiber project progress. It is anticipated that the entire network will be operational at the end of June. There are 27 service providers lined up who can provide retail services onto that network and the BOS will need to decide in the spring who they would like to use for this project.

Ms. Bertram thanked Mr. Alonzo for taking on this role and asked him if he thought that a committee should be formed to work on the final stages of this project. Mr. Alonzo replied that this hadn't been discussed with Mass Broadband and will need to find out what their recommendations are.

Mr. Sund reported that a Capital Planning meeting was held this morning where they met with the Council on Aging, Library and Historical Commission. He stated that this year's requests total \$2M and that this is a work in progress. The goal of the committee is working towards finding out what are the most valued and needed things for the overall community and not each department. The final money decisions for the department requests are up to the Town Manager, Finance Committee, and Town Meeting.

Ms. Bertram reported on the MPO process and the roads in Lunenburg that could be included in the TIP. Ms. Bertram met with the DPW Director where they determined that there are 25 Federal Aid eligible roads in Lunenburg and they cross-referenced these roads with the Pavement Management Plan. They found a potential of 5 projects that would be appropriate to include in the TIP and they are the intersection of Townsend Harbor Rd. and Mulpus Rd., Chase Rd to Northfield Rd., Fort Pond Rd., White St., and Fish St.

Before Project Need Forms are filled out, Ms. Bertram will reach out to Brad Harris, Transportation Director at MRPC and then speak to Arthur Frost from Mass DOT to find out their thoughts on these projects.

Ms Bertram reported that the Planning Board met last night where John Hume, from MRPC gave a report on the District Local Technical Assistance Program. Ms. Bertram hopes to get a copy of this report to the BOS soon.

Also discussed was Arrow Estates, Highfield Village and the APR (Agricultural Preservation Restriction) applications for Lanni Orchards and Pierce Tree Farm.

Mr. Matthews reported that the School Building Committee has sent out requests for design services. The decision on who will be hired will be made by MSBA with input by our local representatives on January 8th.

Mr. Matthews announced that Bob Saiia has submitted his resignation to the Planning Board effective January 1st. He reminded the public that there will be an opening coming up on the Planning Board and encouraged people to step forward to fill the vacancy.

6. Town Manager Reports or Department Reports – None

OLD BUSINESS -

APPOINTMENTS/RE-APPOINTMENTS/RESIGNATIONS

PUBLIC COMMENT

EXECUTIVE SESSION – Mr. Matthews stated that they will be going into Executive Session to discuss a retiree health coverage issue but before they can do so, that there are 3 BOS members (Bertram, deBettencourt, & Sund) that potentially have a Conflict of Interest which would interfere with a quorum. He asked Marc Terry, Labor Counsel, to give advice on how to proceed.

Mr. Terry explained that there is a law entitled “The Rule of Necessity” which means that if you can’t resolve a conflict of interest by making disclosures, any one of the board members can invoke “The Rule of Necessity”. Mr. Terry stated that this process has all been verified by the State Ethics Commission and an email has been received back from General Counsel indicating that the Rule of Necessity can be invoked under these circumstances.

After due & diligent discussion among the board members regarding their individual situations, Mr. Sund, Mr. Alonzo, Mr. Matthews, and Mr. deBettencourt chose to invoke the rule of necessity by stating the following:

I previously had available, though not used, health insurance through the town in my capacity as a member of the BOS/BOA (Sund) BOS (Alonzo, Matthews), Employment through the Town of Lynnfield & BOS (deBettencourt).

Following a retiree health coverage issue that arose as the result of an employee’s inquiry, the Town’s Labor Counsel recommended the Board of Selectmen adopt certain eligibility rules for retiree health coverage in accordance with law. It is my understanding that he did not recognize that I might have a conflict of interest that would preclude me from participating in the Board’s discussion. Thus, it is my understanding that the proposed eligibility rules were adopted without any knowledge of how they impacted me.

After the Town Manager advised the Board members that Labor Counsel had recommended the adoption of eligibility rules and provided them with a copy of the proposed eligibility rules, I immediately advised the Town Manager that I believed I had a financial interest that precluded me from participating in the adoption of any eligibility rules. I subsequently learned that four other members raised similar conflicts.

Under the circumstances, it appears the Board will not have a sufficient number of members able to participate in this matter due to conflict of interest. It is also my understanding that, for the purposes of the conflict of interest law, the Board is required to act upon this matter and that we have received guidance from both Labor Counsel and the State Ethics Commission confirming this point. I also understand, again from Labor Counsel, that the relevant law does not allow us to leave this matter to any other Town office or board. As a last resort, I, therefore, believe the Board needs to invoke the Rule of Necessity so it can address this issue. I would ask my fellow Board members who also have conflicts of interest to join in my request to invoke the Rule of Necessity.

I will add that if the Board invokes the Rule of Necessity, I will set aside my personal financial interest and will participate in this matter action only upon what I believe to be in the best interest of the Town.

I ask that the minutes reflect that I have disclosed my conflict and sought to invoke the Rule of Necessity as a last resort. I would like to note that I will also disclose these facts, in writing, to the Town Clerk and am providing a copy to be attached to the minutes of this meeting."

Ms. Bertram said that she would like to publically state for the record that due to a conflict as both a former employee of the Town and an elected official of the community she does not feel she can participate in this discussion impartially and recused herself from this matter.

Mr. Matthews asked for a motion to go 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.

Mr. Alonzo moved to go into Executive Session. Mr. Sund seconded. On vote, motion carried to adjourn regular session, 4 in favor 1 recused (Bertram)

Regular Session ended at 8:35PM

UPCOMING MEETING SCHEDULE

December 18, 2012

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