

MAY 22 2013

LUNENBURG TOWN
TOWN OFFICE

**BOARD OF SELECTMEN
MEETING MINUTES
5/14/13**

The Board of Selectmen met in the Joseph F. Bilotta meeting room at Town Hall as scheduled with Tom Alonzo, Paula Bertram, David Matthews, Robert Ebersole, Jamie Toale and Town Manager Kerry Speidel.
Regular Meeting opened at 7:00 PM

7:00PM PUBLIC COMMENT

Mr. Matthews opened up Public Comment from the board by thanking the High School and specifically Mrs. Karen Wardwell for a great Pop's Concert that was put on the previous Friday. He was impressed by the entire event and stated he is consistently amazed by how Mrs. Wardwell can organize such wonderful events.

Mr. Alonzo reiterated Mr. Matthew's sentiments about the Pop's Concert and Ms. Wardwell. He also reminded the public that the biannual LHS Musical was being put on May 16th, 17th, and 18th at 7pm in the high school auditorium. This year's musical is The Wizard of Oz.

Mr. Ebersole thanked the Highway Department for the much needed repaving of Fort Pond Road and stated they did an excellent job.

Mr. Alonzo announced that the Town's Memorial Day services are going to be held in Veteran's Park on Sunday, May 26th starting at 11:45am. Mr. Ebersole would be making a speech as a representative of the BOS.

Sharon McCullah, Boys and Girls Club of Lunenburg, opened up Public Comment from the public by thanking the BOS for their support in all of the Boys and Girls Club. Ms. McCullah stated that the Teen Center is a much needed service in Town that does not receive much funding, so they often have to fundraise themselves. Such an event was coming up this Sunday, May 19, at the Whalom water front where there would be a 5K race called "Are We There Yet". Additionally, the Teen Center would like to hold a voluntary toll collection on June 1st in the town center and at the intersection of Route 13 and Whalom Road to collect funds for the Teen Center.

Mr. Alonzo thanked Ms. McCullah for her work and stated everyone should come out to the 5K to support the Teen Center. He also stated that because the Voluntary Toll was not on the agenda for tonight's meeting the BOS could not vote on the toll. However, the Voluntary Toll could be voted on at the next BOS meeting.

Chief of Police Marino informed the BOS that the last Thursday of every month from 9am-10am there will be an Open House at the Public Safety Building where the public could come in to talk to the Chief about problems they were having in town. The open house is a means to make the operations at the Police Department more transparent.

APPOINTMENTS/RE-APPOINTMENTS/RESIGNATIONS –

1. Samantha J. Hudson, Reserve Police Officer: Chief of Police Marino presented to the BOS Samantha J. Hudson, his recommendation for the role of Reserve Police Officer in the Town of Lunenburg. Chief Marino stated that Ms. Hudson was a graduate of Lunenburg High School, studied abroad in Australia and received her Criminal Justice degree from UMass Lowell. She is also a full time campus police officer at UMass Lowell. Mr. Marino stated that Ms. Hudson is well qualified for the position.

Ms. Hudson stated that she wanted to become a Reserve Police Officer in town so she could give back to the community she grew up in and she was particularly interested in forming a mentoring relationship with students in the Lunenburg Public School system.

Ms. Bertram moved to approve the appointment of Ms. Samantha J. Hudson as a Reserve Police Officer in the Town of Lunenburg. Mr. Ebersole seconded. On vote mote carried, 5 in favor, 0 opposed.

APPOINTMENTS

7:30 p.m. – Joel Bard, Open Meeting Law Seminar.: Mr. Bard began by stating that he was from Kopelman and Paige, P.C., who is the Town's Legal Counsel. He was there to talk about the new Open Meeting Law, which had been in the books for about 3 years, and answer any questions that pertain to the Open Meeting Law.

Mr. Bard's presentation was titled "Attorney General's Open Meeting Law Guide" and included sections for:

- Overview
- What meetings are covered by the Open Meeting Law?
- What are the requirements for posting notice of meetings?
- What information must meeting notices contain?
- When can a public body meeting in executive session?
- May a member of a public body participate remotely?
- What public participation in meetings must be allowed?
- What records of public meetings must be kept?
- What is the Attorney General's role in enforcing the Open Meeting Law?
- What is the Open Meeting Law complaint procedure?
- Will the Attorney General's Office provide training on the Open Meeting Law?
- Contacting the Attorney General?

Mr. Matthews asked if the email he had sent to the BOS for their review containing his outline for an Ad Hoc Building Reuse Committee was a violation of the Open Meeting Law.

Mr. Bard stated that it was in violation of the law.

Mr. Matthews said that no member of the BOS discussed what he sent them and he specifically stated they should hold their opinion until the Public BOS meeting in the e-mail. He asked Mr. Bard to clarify that if despite his instructions, which the BOS followed, not to discuss the outline, he was still in violation of the law.

Mr. Bard stated that it was still a violation of the Open Meeting Law.

Ms. Speidel stated that in this particular instance the outline distributed by Mr. Matthews was attached to the BOS's agenda packet. She asked Mr. Bard if this still constitutes a violation of the Open Meeting Law since it was sent from the Town Manger's e-mail attached to an agenda.

Mr. Bard stated it would probably still constitute a violation. It was in a grey area because it was provided by a non-member of the board but it was probably still in violation of the law.

Ms. Bertram asked Mr. Bard if one of the members of the BOS provides something to the Town Manager that is meant to be placed on the agenda or talked about at a meeting, and this is distributed out by the Town Manager, is this still in violation of the law?

Mr. Bard stated that if the additional information is not identified as something that was provided by a member of the board it may not violate the law, but probably it was still in violation.

Mr. Ebersole stated that this part of the law does not provide ample preparation time for discussions on different issues if the BOS cannot receive materials in advance of a meeting.

Ms. Bertram asked Ms. Speidel if the Town Clerk receives the agenda packet for BOS meetings or if they are just sent to members of the BOS individually.

Ms. Speidel stated that the packet itself is distributed to members of the BOS and the staff of the BOS. Just the finished agenda is sent to the Town Clerk and anyone else who requests a copy.

Ms. Bertram asked if the agenda was available to the public as a whole.

Ms. Speidel stated it was available but through the Selectman's office and not through the Town Clerk's office.

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Mr. Bard discussed the posting of meeting agendas, which need to be publicly posted 48 hours in advance before a meeting. These 48 hours do not count Saturdays, Sundays, or public holidays. Agendas must be posted in a way that is conspicuously visible and available to the public at all hours.

Ms. Speidel stated that even though the Town is closed on Fridays, Friday still counts as a day where agendas can be posted.

Mr. Ebersole asked if the Attorney General had been notified that the Town posted the agenda online.

Ms. Speidel stated that the agenda is posted in front of the Town Hall on the all-weather meeting board and that the posting on the Town's website was not in lieu of an agenda being posted outside the building.

Ms. Bertram asked that if the BOS was going to executive session, did they need to announce what the executive session was going to discuss.

Mr. Bard stated that they would have to announce why the BOS was going into executive session, but the announced purpose of the Executive Session should not reveal or compromise the purpose of the Executive Session. The Executive Session should be called by roll call vote and the Chair must announce if the board was going to return to normal session after Executive Session.

Mr. Alonzo asked if there is anything that is required to be discussed in Executive Session.

Mr. Bard stated that off the top of his head he does not believe there is anything that is required to be discussed in Executive Session.

Mr. Ebersole asked if a negotiation was happening in Executive Session, that did not have to do with a union contract or collective bargaining agreement, for example the purchase of a truck for the Town or an Inter-Municipality Agreement, would they be able to negotiate in Executive Session?

Mr. Bard stated that those negotiations were fine but he could not think of a circumstance where such discussion would need to be in Executive Session.

Mr. Bard stated that in concerns to specific issues like license or permit reviews and renewals, an agenda for any meeting must specifically list every case in which a license or permit is being discussed in the agenda and make it accessible to the public.

Mr. Alonzo stated that this seemed like an incredible overreach since there are some meetings where there could possibly be hundreds of license or permits being renewed and this would make any agenda hundreds of pages long.

Richard Mailloux, 88 Laurel Lane, member of the Library Board of Trustees, stated that this rule was established because if a specific permit or license renewal was not listed, and there was someone in the town who was against an individual or a business receiving said license or permit, then that citizen of the town was at an information disadvantage and the town did not adequately inform the public.

Mr. Bard stated that a notice needs to be given if a public meeting is being recorded in any way.

Mr. Alonzo asked if this included the BOS meetings or any other Town meeting that was being televised on the community access channel.

Mr. Bard stated that it should be announced at the beginning of every meeting.

Ms. Bertram asked Mr. Bard that in concerns to Remote Participation of board members in meetings if a Chairperson could participate as the Chairperson remotely.

Mr. Bard stated that the Chair could participate but the designated board member who fills in during a Chair's absence must run the meeting as if the Chair is not present.

Mr. Bard informed the board that it was up to the Chair of each committee to make sure the agenda is in order and posted properly.

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Ms. Bertram stated that in light of the presentation on the Open Meeting Law, it was crucial that this information be distributed to members of every Board and Committee in the Town.

The BOS thanked Mr. Bard for his presentation this evening.

CURRENT BUSINESS

1. Building Reuse Committee – Mr. Alonzo brought up the Ad Hoc committee that Mr. Matthews had proposed as a way of identifying all possible reuses of the Passios Building. Mr. Matthews had sent around a document that fleshed out the purpose of the Ad Hoc committee. The committee would look at all possible reuses including public and commercial use.

Mr. Toale stated that the committee should also look at other buildings in town instead of just focusing on the Passios Building since whatever option is taken on the Passios Building it will affect other buildings in town.

Ms. Bertram echoed what Mr. Toale proposed with the committee looking at all other buildings in town. She stated that the committee needed to also identify the existing need for space for Town Departments and the public.

Mr. Ebersole agreed that the committee should look at all existing Town buildings but the committee has to prioritize buildings and must make the Passios Building the number one priority before looking at any other buildings in town. Additionally, the committee should also look at the option of demolition the Passios Building, which would cost between \$750,000.00 and \$1,000,000.00, and compare the cost of demolition to the cost of any repairs and reuses of the building.

Mr. Alonzo read a list of purposes for the Ad Hoc committee from the document that Mr. Matthews prepared. These purposes included:

1. Identifying the space requirements for potential combined municipal operations.
2. Identifying costs to convert to municipal space.
3. Identify 5-10 year capital costs to retain existing Town Hall, Ritter Building, Eagle House, etc.
4. Identify appropriate options for sale or lease of facility-housing, office, commercial with the facility's proximity to the schools, library, and town center.
5. Identify potential reuse or market for any building emptied by the consolidation with value appraisal to help quantify revenue to defray costs of consolidation if pursued.

Mr. Ebersole asked if the Ad Hoc committee would play into the Open Meeting Laws.

Mr. Alonzo stated that the committee will be playing into the Open Meeting Laws regardless if it has to or not. The committee will have televised meetings, public hearings, and overall be a transparent committee.

Ms. Bertram stated that there was a lot of work to be done by the 9 members of the committee and suggested that there would be a need for small sub-committees within the Ad Hoc committee itself.

Mr. Alonzo agreed with what Ms. Bertram said and stated that the 9 committee members should have expertise in many areas of Town business. The breakdown of the 9 members would include 1 member from each the Planning Committee, the Council on Aging, the Finance Committee, the BOS, and the School Committee, with 4 citizens at large with a relevant background and experience that should include architecture, commercial construction and trades, appraisers, structural engineers, etc.

Ms. Speidel asked what the time table of the committee's recommendation would be and suggested it should coincide with the Special Town Meeting that would be called to vote on a new 6-12 school building in the town.

Mr. Alonzo stated that would be the goal of the committee so that while a new school building was being proposed in the fall to the Town, an explanation would be provided to the Town regarding the Passios Building and what purpose it would serve in the future.

Ms. Bertram asked if there had been any talent bank forms submitted for roles on the committee.

Ms. Speidel stated that some forms had been submitted after Town Meeting, but that didn't necessarily mean that those forms were specifically for the Ad Hoc committee.

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Mr. Toale suggested that a specific talent bank form be created for the Ad Hoc committee, since there was a very specific set of skills that an at large member of this committee should possess.

Pat Slattery, 139 Leominster Road, Chairman of the Historical Commission, urged the BOS to consider making a member of the Historical Commission a sitting member on the Ad Hoc committee since the Town center and the buildings within it are considered part of a National Registered Historical District.

Mr. Ebersole stated that it would be a good idea to include a member of the Historical Commission on the committee because if the Town uses any State or Federal funds, any reuse of the building would be subject to review by the State Historic Commission.

Ms. Bertram stated that it makes sense to have a member of the Historical Commission be a sitting member on the board and reduce the at-large members of the committee to 3.

Mr. Alonzo entertained a motion of the creation of the Building Reuse Committee with a membership of 9 people including a representative from the Planning Committee, the Council on Aging, the Finance Committee, the BOS, the School Committee, and the Historical Commission with 2 citizens at large who possess relevant skills. Mr. Matthews so moved the motion. Ms. Bertram seconded the motion. On vote motion carried 5 in favor, 0 opposed.

Mr. Toale volunteered to be the representative of the BOS on the Building Reuse Committee.

Mr. Ebersole nominated Mr. Toale to represent the BOS on the Building Reuse Committee. Ms. Bertram seconded. On vote motion carried, 5 in favor, 0 opposed.

Mr. Matthews stated that the Town Clerk needed to be aware of the meeting and that the beginning stages of funding any sort of research done on the Building Reuse Committee needed to go forward. Additionally, the committee must be made aware that their proposal for the Passios Building needed to be ready by the Special Town Meeting in the fall.

2. Minutes/Warrants/Action File Issues

Minutes: 5/7/13

Warrants: 5/14/13 #61-13 \$1,601.290.32
4th Quarter Water Department Commitment \$4909.20

Mr. Ebersole requested a map of where the Water Department is serving compared to the Water District.

Ms. Speidel said she was not sure if there was an official map but could provide the BOS with such a map.

Action File Issues: Mr. Matthews stated that the Cemetery Tool Shed was designated a Historical Building and needed to go through a proper review before demolition. He asked if the Cemetery Commission had proceeded with the proper route to demolish the building.

Ms. Speidel stated that she believes the Cemetery Commission has moved forward on the issue.

Mr. Matthews asked for an update on the Open Space Plan in Town by the Open Space Committee and what lands are being looked at for potential purchase by the Town and a plan for the use of any open space in Town. He asked when a recommendation would come out of the Planning Board for review by the BOS.

Ms. Bertram stated that the Open Space Plan is a component of the Town's Master Plan. The Open Space Plan was discussed by the Planning Committee and the Open Space Plan does meet all requirements by law. She stated that when a parcel of land comes out of Chapter it makes sense for the Town to already have a plan for the land.

Ms. Bertram suggested the BOS should invite the Open Space Committee to a BOS meeting for an update.

Ms. Bertram stated that the Montachusett Regional Planning Commission has a program called Mr. Mapper which maps the trails and paths in the Town for free.

Mr. Ebersole stated that the BOS should have a liaison to the Library Committee and the Board of Health.

Mr. Alonzo stated that they had never had a liaison from the BOS to these groups, mostly due to time constraints on behalf of the BOS. If someone wanted to volunteer to be the liaison to these groups that would be fine with him.

Mr. Ebersole volunteered to be the liaison from the BOS to both groups.

Mr. Alonzo said that would work out well and thanked Mr. Ebersole for volunteering to be the liaison to the Library Committee and the Board of Health.

3. Committee Reports : Mr. Matthews stated that the School Building Committee had met last Wednesday. The biggest point of discussion was working with the MSBA and their schedule. There had been some slippage on the MSBA side and they School Building Committee did not want to fall behind schedule and potentially lose an entire year with the new school.

Ms. Bertram stated that the MPO met to talk about the Summer Street project. The 2013-2014 TIP was released for Public Comment. The TIP is located on the MRPC web site for Public Comment. The next meeting of the MPO will be the second week of June where they will be finalizing and voting on the plans for the Summer Street project. Summer Street was included in the TIP for the 2017 funding year. She is set to meet with all those involved with the Summer Street project in the summer. There was also discussion during the meeting about a new program called the Transportation Alternatives Program. The program just started out and has funding of about \$75,000.00 per year. The program targets non-Federally funded transportation projects. She stated that it is an interesting program that the Open Space Committee should look at for projects in Lunenburg.

Ms. Bertram said she was not able to attend the Planning Board meeting. Updates from the meeting included the welcoming of 2 new members, lawsuits filed for all 10 subdivisions associated with O'Brian Homes, the tanks are in the ground of the gas station planned for Leominster-Shirley Road, Emerald Place is taking care of the interior roadway which needed repairs and stated there were no plans for additional buildings until the market got better, the building of Tri-Town Landing is continuing, there was discussion about the parking and egress problems at Asian Imperial restaurant and discussion about the possibility of solar farms on Chapter land.

Mr. Alonzo had a follow up question regarding Tri-Town. Tri-Town which was built under 40R and 40S and was supposed to include extra funding for students and asked if the Town had ever seen any extra funding.

Ms. Speidel stated that no funding has been seen separated out and had asked the Planning Board Director to follow up on this matter.

Ms. Bertram stated that she had heard that the Town was not qualified for extra funding under 40S, and would like clarification on this from the Planning Board Director.

Ms. Speidel stated that we had filed the application as soon as the Certificate of Occupancy was issued and based on the date of that certificate we were not eligible for the 40S funding the first year. She stated that she thought there may have been an increase in Chapter 70 funds, but there was nothing significantly indicating that this had happened. Ms. Speidel will research this matter further.

4. Town Manager Reports or Department Reports – None.

PUBLIC COMMENT –

Ms. Bertram suggested that the BOS schedule a policy and procedure workshop, and that the new members of the BOS be issued a copy of the current policy and procedure handbook.

EXECUTIVE SESSION – Being no further business, Mr. Alonzo moved to enter into Executive session citing M.G.L. Chapter 30A, Section 21A (9), 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. Speidel stated the Executive Session was going to review the proposed Memorandum of Agreement between the Town and the Lunenburg Public Employees Committee in concerns to health insurance.

Mr. Alonzo stated they would not be returning to open session and asked for a roll call vote.

Roll Call vote: Matthews – Aye, Bertram – Aye, Toale – Aye, Ebersole – Aye, & Alonzo - Aye

Regular scheduled meeting ended at 9:39PM.

UPCOMING MEETING SCHEDULE

May 21, 2013

June 4, 2013

June 11, 2013

June 18, 2013

Respectfully Submitted,

Susan Doherty, Recording Secretary

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