

**BOARD OF SELECTMEN  
MEETING MINUTES  
7/16/13**



The Board of Selectmen met in the Joseph F. Bilotta meeting room at Town Hall as scheduled with Tom Alonzo, David Matthews, Robert Ebersole, Jamie Toale and Town Manager Kerry Speidel.

Absent: Paula Bertram

Regular Meeting opened at 7:00 PM

**7:00PM PUBLIC COMMENT**

Mr. Alonzo reminded all of the band concerts being held at the lower common gazebo on Monday evenings.

**APPOINTMENTS**

**7:00 p.m. Request to Approve Change of Manager & One Day Extension of Premises License for Lakeview Club, 449 Whalom Rd:** Danielle Bettencourt, representing the Lakeview Club came before the BOS to request a manager change and a one day extension of premises license for the club. Ms. Bettencourt explained that this business is owned by her family. The former manager, her father, had passed away and they would like for Ms. Bettencourt to be named the new manager on the license. She also explained the reason for the one day license was for a Motorcycle Run fundraiser, in her father's name, to be held on August 24<sup>th</sup> to raise funds for the American Diabetes Association. The extra outdoor space is needed for a BBQ and so that participants can partake in their beverages outdoors.

Mr. Toale moved to approve the change of Manager at the Lakeview Club, 449 Whalom Rd. Mr. Ebersole seconded. On vote, motion carried, 4 in favor, 0 opposed.

Discussion continued on the One Day Extension request. Ms. Speidel stated that the application has been reviewed by both the Building Inspector and the Police Chief. The Building Inspector has no issues with the application but the Police Chief would like to have detail officers in attendance. Ms. Speidel asked that if this approved, that the applicant be in touch with the Police Chief about the detail. Ms. Bettencourt agreed.

Mr. Matthews asked who would be serving the alcohol to the participants and if everyone was TIPS certified. Ms. Bettencourt replied, her daughter, niece, herself, mother, brother, nephew, & boyfriend. She stated that all are TIPS certified.

Mr. Alonzo asked if the area was fenced in and if people knew that they need to stay within that area.

Ms. Bettencourt replied yes.

Mr. Matthews moved to approve the One Day Extension of Premises License for Lakeview Club, 449 Whalom Rd on August 24, 2013, from 9 a.m. – 9 p.m. Mr. Toale seconded. On vote, motion carried, 4 in favor, 0 opposed.

**7:15 p.m. Request for Common Victualler's License, Tarrnum Williams d/b/a Kabob-E-Licious, 165 Mass Avenue:** Tarrnum Williams, representing Kabob-E-Licious spoke to the BOS to request a Common Victualler's License. She began by apologizing to the board for not attending last week's meeting and described what type of business this was going to be which is a Mediterranean, Spanish, Indian infused healthier food alternative. The hours of operation will be from 8 a.m. – 10 p.m., Sunday – Saturday. Ms. Williams has extensive experience in the food/hospitality industry and the family owns other restaurants in Maine and New York.

Mr. Ebersole asked if Ms. Williams has contacted the Sewer & Building Departments.

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Ms. Williams replied yes and they told her to go through the process of plumbing & electrical inspections which are currently being done.

Ms. Speidel stated that the business cannot be opened without a Certificate of Occupancy issued by the Building Inspector and if the BOS approves this license it would be dependent upon the Food Service Permit being issued by the Board of Health.

Ms. Williams stated that she has been in contact with the BOH and they have an appointment with them this Friday. The target date for opening is July 20, 2013.

Mr. Ebersole moved to approve the request for the Common Victualler's License, contingent upon the approval of the Food Service License for Tarrnum Williams d/b/a Kabob-E-Licious, 165 Mass Avenue. Mr. Matthews seconded. On vote, motion carried, 4 in favor, 0 opposed.

**7:10 p.m. Request to Approve One Day Liquor License for Conrad's Drive-In, Inc., 835 Massachusetts Ave:** David H. Leet, 835 Mass Ave, representing Conrad's Drive-In came before the BOS to request a One Day Beer & Wine License for a Classic Car Show being held on August 2, 2013, from 3-9 p.m.. He stated that 20% of the profits from the beer sales will be given to the Lunenburg Boys & Girls Club.

Ms. Speidel stated that both the Building Inspector and Police Chief had reviewed this application and had no concerns.

Mr. Ebersole moved to approve a One Day Liquor License for Conrad's Drive-In, Inc. 835 Massachusetts Avenue on August 2, 2013 from 3-9 p.m. Mr. Toale seconded. On vote, motion carried, 4 in favor, 0 opposed.

**7:15 p.m. Request to Approve Class 2 License, Custom Auto Sales & Storage, 39 Massachusetts Avenue:** Mr. Alonzo opened the Public Hearing concerning the request to approve a Class 2 License for Custom Auto Sales & Storage located at 39 Massachusetts Avenue reading and into record the Notice of Public Hearing.

Rocco Lastella, 146 Elmwood Rd. came before the BOS to request approval for Class 2 License for Custom Auto Sales & Storage. Mr. Lastella gave a brief history of his years living in Lunenburg and said that he has purchased this property to restore and sell collectible cars.

Ms. Speidel stated that the application is complete but they are still waiting for the CORI to come back. The license cannot be issued until the CORI is completed. If the BOS approves this license the applicant will need to provide a \$25,000 bond. The applicant did receive a Special Permit from the Zoning Board of Appeals and it is restricted to the sale of 10 motor vehicles.

Mr. Matthews noted that the ZBA process was extensive and complete and that the neighbors all had good reviews for the applicant. He went on to say that he was glad to see the property being maintained.

Mr. Alonzo asked if there were any abutters present to speak to this request and there were none.

Mr. Matthews moved to approve the request of the Class 2 License for Custom Auto Sales & Storage, 39 Massachusetts Avenue, pending the receipt of the CORI check. Mr. Toale seconded. On vote, motion carried, 4 in favor, 0 opposed.

### **CURRENT BUSINESS**

Attorney Holland from Kopelman & Paige came before the BOS to report on the PPA's with NuGen and EPG Solar along with the IMA with the Town of Townsend. Attorney Holland stated that the PPA with Nugen has been negotiated and is available for the board's consideration and EPG's PPA was signed by the BOS a while back. He went on to say that under the current caps it is unlikely that both of these facilities will be constructed to their full capacity, however to the extent that pending projects do not get constructed or the caps are raised, it could be possible that both projects are built to their proposed capacity. He feels that the BOS should assume that this possibility may in fact occur. Taking the conservative view, on both agreements, the Town could be potentially purchasing well over 4M kWh per year worth of Net Metering credits.

**1. Approve IMA with Town of Townsend for Resale of Net Metering Credits:** Attorney Holland explained the process of selling Net Metering Credits to the BOS.

Mr. Alonzo questioned why language was incorporated that only credits from NuGen could be sold to other communities.

Attorney Holland replied that it was his understanding that this is what the BOS wanted. He recommended that Ms. Speidel contact Andy Sheehan from Townsend to work out the terms in the IMA. This item remains a work in progress.

**2. Approve PPA and/ or PILOT Agreement with NuGen (formerly Mass PV1 project):** Attorney Holland informed the BOS that he has negotiated a PPA with NuGen and explained the document to them. He said that this is a typical PPA, similar to EPG's PPA, with the exception of the pricing structure and capacity of the facility. (see attached)

Mr. Matthews questioned the pricing structure and if there was a shift in the market that is driving this. Attorney Holland replied that prices have gone up and that the marketing for Net Metering credits has changed which is a major factor that drives the changes in the PPA's.

Mr. Matthews questioned if NuGen is still leasing the property. Attorney Holland replied that it was his understanding that they have an option to purchase the property, but they will not exercise that until they have a PPA. The timeline on the NuGen agreement has a commercial operation date of about 1.5 years with the possibility of longer, if there is an event beyond their control. Provisions were included that they have to meet their construction timeline in order for them to be included in the current SREC program. NuGen is optimistic that they can meet the timelines. Attorney Holland reminded the BOS that once these documents are signed you are bound to them.

Mr. Ebersole moved to approve the PPA with NuGen Capital Management, LLC as presented. Mr. Matthews seconded. On vote, motion carried, 4 in favor, 0 opposed.

**3. Approve revised PPA and/or PILOT Agreement with EPG Solar:** Attorney Holland explained that EPG had requested some amendments to the PPA and reviewed each change with the board. (see attached) Mr. Matthews moved to approve the amendments to the PPA with EPG Solar as presented. Mr. Ebersole seconded. On vote, motion carried, 4 in favor, 0 opposed.

Mr. Holland explained that the EPG has held off on their PILOT agreement due to the bankruptcy proceeding but they are now interested in starting the process again. NuGen has negotiated the language in their PILOT and it is pretty much ready to go. Regarding both agreements we are waiting on information from Lunenburg's Assessor concerning the real estate portion of the agreement.

The BOS reminded all that PILOT stands for "Payment In Lieu of Taxes" which means instead of receiving a "regular" tax bill they will receive a "negotiated" one that will fix the payments over a period of 20 years, on a fair tax value. PILOT agreements are not tax breaks. The amount that was approved at Town Meeting was approximately \$18,800.

**4. Board of Selectmen Policies & Procedures – set work shop date:** BOS Policies & Procedures will be placed on the July 23<sup>rd</sup> agenda and they will also hold a Workshop to discuss these items on July 29<sup>th</sup>.

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

Minutes: 7/9/13

<u>Warrants:</u>	6/30/13	2W-P13	\$236,805.80
	7/16/13	3-14	\$792,768.14
	7/17/13	4-14	\$508,340.10
	7/18/13	W32P-14	\$502,615.62

Action File Issues: Mr. Matthews questioned the status of the fence issue at Tri Town.

Ms. Speidel reported that a complaint had been made to the Planning Director concerning the placement of a fence on the back side of Tri Town. This project was approved in either 2006 or 2007 and one of the requirements placed on the approval was to maintain a fire access at the rear of the property. After several meetings with the BOS & the Planning Board it was determined that it would make more sense to have the access road on Town property. The Developer requested an easement over the Town property for that, and it was then determined that a licensed agreement would make more sense because an easement could be revoked at any time.

The fence that was placed was part of the approval of the Planning Board, and was on the approved plan for the project, but the fence is not specifically mentioned in the license agreement. The BOS did not approve the fence, but the fence was on the Planning Board approval. Ms. Speidel thinks that the developer combined the two and made an assumption. This is not the same developer that went through this approval because the project had been sold. The current developer has stated that he will move the fence if this is an issue.

Mr. Ebersole questioned if the fence was on the area that the fire access was.

Ms. Speidel replied yes and that they will have the Engineer review the plans again.

Mr. Alonzo suggested that Town Counsel add the fence into the licensing agreement.

**7. Committee Report: Building Reuse Committee; Board of Health; Capital Planning Committee; Finance Committee; Library Board of Trustees; MPO; Planning Board; PACC; School Committee; School Building Committee; Sewer Commission; MA Broadband:**

Building Reuse Committee – Mr. Toale reported that the committee met last night, and will be meeting on the 1<sup>st</sup> & 3<sup>rd</sup> Mondays of each month. Officers for this committee are Chairman – Jamie Toale, Vice Chair – Pat Slattery, & Clerk – Damon McQuaid.

Board of Health – No Report

Capital Planning Committee – Mr. Toale reported that Capital Planning has finalized their package and will be sending this out to Department Heads in September.

Finance Committee – Mr. Alonzo reported that the Finance Committee had reorganized their board and welcomed two new members.

Library Board of Trustees– No Report

MPO- No Report

Planning Board- No Report

PACC- Mr. Ebersole reported that they are in process of their End of the Year Progress Report. They are looking at upgrading equipment at Town Hall, and they have Interns working on summer projects. The Comcast Contract will be up 2017 and Mr. Ebersole suggested the BOS start thinking of what they would like to do with that. He asked Mr. Alonzo if the Broadband would have any interaction with the Cable broadcast. Mr. Alonzo replied that they would not.

School Committee- No Report

School Building Committee- Mr. Matthews reported that they will be interviewing tomorrow with the finalists for the Construction Manager at Risk at Town Hall.

Sewer Commission- Mr. Ebersole reported that the Sewer Commission will be meeting next week.

MA Broadband- No Report

**5. Town Manager Reports or Department Reports:** Ms. Speidel mentioned that Jones House is coming along quite nicely. She said that this is a good example of the Town's surplus property and that the property has become an asset to the community.

Ms. Speidel has signed an agreement with a Licensed Site Professional concerning the Parks Building on West St. They will be doing a Phase 1 Environmental on the property which will help the BOS to market the property. The cost to do the report will be \$3000 and should be ready in approximately 1 month.

Ms. Speidel had the LSP look at the Mass Ave gas station also and he put together a proposal which is a little more costly. She stated that we need to look at it again because we don't own that property. The property owner has moved and they are not sure where he has gone. Ms. Speidel said that they are ready to take this property to Land Court and foreclose on the Tax Title but would like to meet with DEP before they move forward.

Fiscal 2013 is being closed out and Ms. Speidel expects to have a complete report on Revenues and Expenditures for the BOS at next week's meeting. There are also a couple of transfers that she will be asking the BOS and Finance Committee to approve.

Ms. Speidel was advised by Unitil that they have filed a rate case and she will put together a detailed report on what they filed for the BOS. All of the changes that they are looking for will result in a 50 cent per month increase to residential customers. The rate case process is very lengthy and the Town can follow the process by formally filing as an Intervener or the Town can follow on their own. This will be an agenda item for the next BOS meeting.

#### **APPOINTMENTS/RE-APPOINTMENTS/RESIGNATIONS**

**1. Registrar of Voters** – Ms. Speidel commented that we have two groups here, the Registrar of Voters and Election of Officers. Under the Town Charter the BOS appoints the Registrar of Voters and other Election Officers. The appointment process for Other Election Officers is spelled out in M.G.L. Chapter 54 section 12. In a prior discussion concerning the appointment of the Registrar of Voters, it was mentioned that there have not been any appointments to the Other Election Officers since the year 2000. There is a process where the BOS accept nominations from both Town Committees and there is a time table associated with that. If the BOS does not make these appointments then the Registrar of Voters makes the appointments.

Ms. Speidel is not sure why the BOS stopped making these appointments but she believes that the Town Committees has stopped doing it.

Ms. Speidel distributed a memorandum to the BOS on who the people are for Other Election Officers and what their political party is.

Mr. Ebersole noted that what their political party is, does not mean that there are just two. The assumption was that you wouldn't have all of one political party vs. the other and that it would be even in the appointment process.

Mr. Ebersole moved to re-appoint Shirley McBride to Registrar of Voters. Mr. Matthews seconded. On vote, motion carried, 4 in favor, 0 opposed.

Discussion ensued on when this item should be placed on the agenda whether it be next year or next week. Mr. Ebersole would like to have discussions on all BOS appointments to review the appointees attendance records/contributions at meetings.

Ms. Speidel will draft a letter to the Town Political Parties asking for their recommendations for Other Election Officers and this matter will be put on the BOS August 6, 2013 agenda.

**PUBLIC COMMENT** - None

**EXECUTIVE SESSION** – None

Being no further business, Mr. Toale moved to adjourn the meeting. Mr. Matthews seconded. On vote, motion carried, 4 in favor, 0 opposed.

Meeting adjourned at 8:43 p.m.

**UPCOMING MEETING SCHEDULE**

July 23, 2013

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