

**BOARD OF SELECTMEN  
MEETING MINUTES  
9/10/13**

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

Regular Meeting opened at 7:02 PM

**7:00PM PUBLIC COMMENT**

Mr. Ebersole mentioned that he was contacted from a resident with a complaint about service from Comcast asking how it was decided that Comcast was the deliverer of cable service. Mr. Ebersole questioned when the contract with Comcast was up to which Ms. Speidel replied that she believed it was in 2017 and that they would have been the only company that responded to the Request for Proposal (RFP) at that time.

Mr. Alonzo added that this is a non-exclusive contract and that we do not deal singularly with one company.

Mr. Ebersole said that he encourages anyone with complaints file them at Town Hall so at the renewal point we will be able to address them with Comcast.

Ms. Speidel added that if anyone has a current complaint with Comcast she would be happy to receive them and pass them onto the government contact for Comcast.

Mr. Ebersole asked Ms. Speidel if other Towns have a definition of Liaison between committees as to what the definition of Liaison is and what their duties are.

Ms. Speidel will investigate as to what other communities are doing.

**ANNOUNCEMENTS**

Mr. Alonzo announced that the Department of Public Utilities will be holding a Public Hearing concerning the Unutil rate increase on 9/23/2013 at 7PM at the Fitchburg Memorial Middle School.

**APPOINTMENTS** - None

**CURRENT BUSINESS**

**1. Town Manager's request for Board to consider authorizing Town Counsel's involvement in MGL Ch. 59, Sect. 60 Complaint- Election Law:** Ms. Speidel read a memo which she had sent to the BOS regarding the complaint of "Irregularities Concerning the April 30, 2013 Town Election". In the memo she recommended that Town Counsel be authorized to participate in the investigation. She believes that there is a greater interest at stake, that of the integrity of the Election itself and the Election process. Ms. Speidel has reviewed this matter with both the Town Clerk and Town Counsel, and although the Town Clerk has not requested legal assistance, Ms. Speidel is recommending that Town Counsel be authorized to participate in this investigation.

Joel Bard, Town Counsel from Kopelman and Paige, P.C. was present to answer any question pertaining to this matter.

Mr. Alonzo spoke to say that the involvement of Town Counsel would be to protect the integrity of the Election process for all of Lunenburg. He also emphasized that it should not be taken that Town Counsel is part of the Secretary of State or Attorney General's investigation nor are they part of the defense of the Town Clerk or any other parties mentioned in the complaint. They are here to monitor those things and report back to the BOS those things that are of most interest to us in this case and to inform them of anything they may need to know during and after the final conclusion is reached by the Attorney General. He stated that he supports the Town Managers request for Town Counsel to participate in the investigation, to the extent that they need to be.

Mr. Ebersole asked what the approximate amount of cost to this would be.

Mr. Bard replied that they don't envision it to be a lot of hours. We would only be an interface with the Secretary of State's office. The Town Clerk has replied already to that office, we have seen her reply, so there is no need for an investigation on our part. We will be talking with the Secretary of States office to assure them that the elections are being carried out appropriately and act as an interface between their office, the attorney's and the BOS.

Ms. Speidel spoke to say that if the board was going to authorize this that they establish a limit.

Mr. Ebersole spoke and asked Town Counsel to note that his recollection of what happened at the Election is different then that of the Town Clerks response so that Town Counsel's comment saying that they would be assuring that the Election was run properly is not the position of this board because we have not taken that position one way or the other. He went on to say that he would be comfortable with the notion that Town Counsel would be representing the Town's interest to find out what's going on and to monitor, but before you take a position regarding the Election I would say that we need to have another discussion about that because I have different information then what was provided to us tonight.

Mr. Bard responded by clarifying that he was talking about the integrity of the Electoral process but it's clear that not everything was done by the books.

Mr. Matthews spoke to say that having a 3<sup>rd</sup> party involved is in important to keep the board informed of what's going on and he does not see the board as taking a stand one way or the other and supports having Town Counsel involved set within a budget that's comfortable.

Ms. Bertram asked Mr. Bard what he thought was a reasonable budget.

Mr. Bard replied that he thought it could be 5-15 hours, if it is done quickly.

Ms. Speidel spoke to say that she would recommend a budget not to exceed \$3000.

Mr. Ebersole spoke and said that he has reviewed the Town Charter and there is a provision that states that the Selectmen can ask the Town Manager to do investigations of various situations and at another time he may want to have that investigation go on concerning this Election, but since the Secretary of State has already done that, he is fine in deferring to that. He went on to say that as a Selectmen Board it is our duty to make sure that all officials and committees in Town are doing what they are charged to do. He said that he would be fine supporting this proposal as described tonight.

Ms. Bertram moved to approve the Town Manager's request that Town Counsel be authorized to participate in the investigation concerning the MGL Chapter 56, Section 60 Complaint, with a cap of \$3000 for funding. Mr. Matthews seconded.

Discussion: Ms. Bertram spoke to say that we have not discussed this as a board and the members may have differing opinions. She thinks that the board needs to review the Town Charter to see what the board's role would be in this type of situation, and once we get this decision we need to have that discussion.

Being no further discussion, Mr. Alonzo called for a vote. On vote, motion carried, 5 in favor, 0 opposed.

**2. Presentation of Sign Inventory; Update on Pavement Management Plan; Other Roadway Issues- Jack Rodriquenz, DPW Director & World Tech Engineering:** DPW Director Jack Rodriquenz along with Rich Benevento and Mike Pompili, from World Tech Engineering were present to give a presentation of road sign inventory and an update on the pavement management plan.

Mr. Rodriquenz began by explaining that the presentation would be given in 3 parts.

1. Work that has been completed for the Sign Mandate, through MUTCD (Manual on Uniform Traffic Control Devices).
2. Enhancement of our existing Pavement Management Program.
3. Status report on the application for funding on the Route 13 corridor, which World Tech Engineering has agreed to assist with.

Mr. Benevento spoke and gave a brief history of what was driving the sign management program which was retro reflectivity. He mentioned the computer program which is installed at the DPW which aides in identifying non compliant street signs and also how this program could be integrated to help with the pavement management program. This program can run from Micro Soft Office along with GIS Mapping and ArcView.

Mr. Pompili spoke and explained the Sign Program portion of the presentation which included sign size, font size, colors and retro reflectivity. The computer program has revealed that 93% of the signs in Lunenburg, not including street signs, are not compliant with State regulations, 36% passed on retro reflectivity, 17% are obstructed and 10% are not standard size.

Mr. Ebersole asked if this data base had the date or the fact that the BOS had approved the sign location to which Mr. Pompili replied they did not do local ordinance compliance.

Mr. Ebersole asked if there was a listing of when we adopted the various ordinances.

Mr. Benevento answered that they did not do a local ordinance review in Lunenburg but recommends that they do so.

Mr. Ebersole stated that we need to do a local ordinance review on when the Selectmen adopted them and where the signs are located. He feels it should be fairly easy to add this information the data base. We need to get this inventory, review it and ratify it as a board.

Discussion ensued among the board that they could not recollect ever adopting a sign placement except in new larger developments. Accepting a sign is completely different the accepting a public way. The BOS will be discussing this matter again at a later meeting.

Mr. Ebersole questioned street signs at intersections of main roadways such as Massachusetts Ave asking if there are regulations on signage for them.

Mr. Pompili answered that there are no regulations but that the MUTCD recommends that there is signage at these intersections.

Mr. Ebersole asked if when the signs are replaced is there a process to recycle the metal.

Mr. Rodriquenz answered that there is and that the money is returned to the Town's General Fund.

Mr. Benevento spoke on the Pavement Management goal which is to assign the appropriate "Repair Method" to the applicable road at the proper time. He spoke on the financial benefits along with what the user satisfaction would be while accessing this information from this computer program. All existing information that the DPW uses will be integrated into the new data base which will be a substantial savings to the Town. This system is also capable of isolating certain segments of road for separate analysis.

The cost for this program will be \$11,700 and will be funded from left over Chapter 90 funds which is a good investment for putting together a plan for this Town based upon the fiscal reality. All of the current information that the DPW has on Excel concerning Pavement Management/Street signs can be intergraded into this system fairly easy. Regarding the maintenance of this computer program it does not need updating by World Tech Engineering, it is an Access program and can be done directly by the staff at the DPW.

Mr. Rodriquenz spoke in support of this program saying that it is great tool in addressing the pavement management program for the Town. He believes that this is money well spent, it's a great Capital Plan tool along with a budget tool, and is certainly something we need.

Mr. Alonzo spoke and said that for the DPW not to have GIS mapping of signs and the pavement management plan would be a severe detriment. He is glad to see this because we need a "point and click" component of the roadway system. His biggest fear is that this will give a really great illustration of what we don't fund, which will colorize all of the things that need to be fixed in Town, that the Town does not want to pay for. He hopes that this will enlighten people as to what we need and what we are asking for.

Mr. Benevento mentioned that another one of his fortes was to help Cities and Towns find money for road projects. In addition to the Chase Rd project, once he's in Town, it's in his interest to help the Town find money. Whether it's the TIP project or other funding programs its part of his job to bring this information to the

DPW and the Town Manager to initiate the funding request process. Currently they are starting the process for funding the Chase Rd. project and explained how the steps to do this works.

Mr. Rodriquenz mentioned that Ms. Bertram was instrumental in pursuing the funding for this project and that Mr. Benevento is just as tenacious as she when it comes to procuring funds.

Ms. Bertram asked if the \$11,700 includes the cost of integrating the existing data.

Mr. Benevento replied that it includes integrating the data you have. The reason that cost is where it is, if we had to go out and inspect all the streets the price would have been doubled.

Ms. Bertram mentioned the speed limit signs and looking into whether or not we've gone through the proper process with adopting them.

Mr. Pompili spoke to say that we did compare speed limit signs to other special speed limitation signs that are on file. There are 16 speed limit signs town wide, 9 of which are compliant and 7 are not. Most of the signs out there have been adopted and approved by MassDOT and there is one special speed regulation that was adopted north bound on Electric Ave and there are no signs to support it.

Mr. Benevento added that the only one who can approve a special speed regulation sign being put up is MassDOT and the Registry, then the Town would adopt that sign.

The BOS thanked Mr. Rodriquenz, Mr. Benevento and Mr. Pompili for their presentation this evening.

### **3. Minutes/Warrants/Action File Issues**

Minutes: 9/3/2013

<u>Warrants:</u>	09/10	#13-14	\$279,175.13
	09/11	#14-14	\$139,424.86
	09/12	W6-P14	\$642,252.22

Action File Issues: Mr. Matthews questioned whether or not any type of fee has been collected from the Track & Field Association for future replacement/maintenance of the turf and track at the new field which was discussed with the Park Department during the original planning of the facility. He believes that this will be a significant cost and would like to know how the Town will be funding it.

Ms. Speidel replied that the meeting was a couple of years ago and the BOS did ask the Parks Dept. to put together a proposal. The current operations and maintenance of the field is paid for through user fees but the replacement of the turf has not been considered. It is Ms. Speidel's intention to put the replacement into the Capital Plan and she believes the life of the turf was to expire around the year 2017.

Mr. Rodriquenz spoke and said they had one meeting at DPW with the Town Manager, the Superintendent of the Schools, the Lunenburg Track & Field Association, Athletic Director and John Londa all in attendance. Mr. Rodriquenz believes that the Track & Field will need to accept all kinds of activity in the future then it does today. The life expectancy of the field will probably coincide with the completion of the School Building Project but with all the extra activity it will exasperate the situation that's already there and currently it is in failure in lots of places. He said that we are looking at around \$700,000 to pull the turf up, replace with top of the line turf, and resurface the track. He is concerned that if money is not earmarked for this project it will be ruined, and after the School Building project is completed, nobody will have the appetite to spend more money on the existing track and field. He does not see this as a Capital Plan project but rather as a component in the overall School Building project.

Mr. Matthews asked Mr. Rodriquenz to please not throw out inaccurate numbers that may mislead the public.

Ms. Speidel spoke to say that the user fees are used to cover current upkeep of the facility and not to replace the turf and track. The concern with the Capital Plan is that in any one year we spend between \$300,000 - \$600,000 and this is a \$700,000 project. It's going to be impossible to fund all of our Capital needs without doing some borrowing. She is not suggesting it be done outside of the levy but in the next couple of years she believes we will need to borrow within the levy to cover whatever portion of this turf project that is assigned to

the Town as a whole. We will also be looking at replacing some of the Fire apparatus along with any number of other things.

Mr. Alonzo spoke to say that we had met with the "then" Commission of the Park Dept. and the Chair at that time said it was their intent, with the support of the BOS, to increase the user fees with a portion of those fees to be put aside for the eventual replacement of the turf. It was clear back then that whatever was collected would not be the \$700,000 but there would be something. He would like to know if those increases were ever put into place and if not, why wasn't that done, and are there any plans to do so.

Ms. Speidel replied that this has not been done and we need to task the Parks Commission to do.

Mr. Rodriquenz said that if had expounded upon numbers that were erroneous he apologizes.

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

Board of Health – No Report

Building Reuse Committee – No Report

Capital Planning Committee – Mr. Toale reported that this board will meet on the 9/25 to start reviewing the input from the Capital plans.

Finance Committee – No Report

Library Board of Trustees – Mr. Ebersole reported that painting has begun on the outside of the library.

MPO – No Report

Planning Board – Ms. Bertram reported that they had questioned the status of 925 Mass Ave to which Ms. Bertram told them that the Town Manager was working on this matter. The Planning Board had received the inventory of Town owned land from the Assessor and one of the properties listed was Lake Shirley.

Mr. Alonzo replied that we had discussed this in length a long time ago and it will not be discussed again.

Ms. Bertram reminded the board that there is liability involved with owning a lake and although the Town of Lunenburg accepted the dam, there is nothing that says the Town accepted the lake itself.

Ms. Speidel stated that this discussion was concluding when she began her employment with the Town and there are numerous files and legal bills on researching this matter, which was all inconclusive.

Ms. Speidel stated that if the owner is unknown, it is always listed as "In care of the Town". She will contact the Assessor for more information on this matter.

Also discussed at the Planning meeting was the Primary School building and what the plans are for it.

Mr. Toale spoke to say that he wanted to clarify that when people say that "there's nothing happening there" there is something happening and it's a long process and that building is not part of the Charter of the Building Reuse Committee.

Ms. Speidel stated that in respect to the Eagle Heights project she met with Jon Juhl, RCAP Solutions, and Mass Development 2 weeks ago. They are looking at the feasibility of going forward with partial grant funding from the State and tax credits.

Ms. Speidel has tasked the Assessor with putting together an appraisal on that property and has discussed some sort of PILOT (Payment in Lieu of Taxes) for that property, which the developers are adamant that they need.

Ms. Speidel reported that 925 Mass Ave is privately owned but as of 6 months ago they have not been able to locate the owner. There is a tax title on the property that the Town could foreclose on and had an LSP (Licensed Site Professional) looked at the property and prepare a proposal. She has not taken this further because the Town does not own the property. She would like to pay the LSP a small retainer to go to DEP (Department Environmental Protection), along with the Fire Chief and herself, to find out how they would recommend the Town to proceed. For lack of time this hasn't moved forward and there are other items that

are higher priority. Ms. Speidel would like to do something but it's complicated because we don't own it and we're not 100% sure of the level of contamination. Ms. Speidel does not want any liability that the Town can't afford at this time.

Ms. Bertram wanted to revisit a previous discussion concerning liaisons to other boards and asked the boards opinions as to what they thought their definition was. Ms. Bertram interprets her role as liaison with the Planning Board is to simply come back and relay information from the meeting so that the BOS are aware of what's going on at the Planning Board level. She feels it's not her role to participate in their discussion unless requested to do so.

Mr. Matthews stated that there was some confusion as to what membership vs. liaison is. As a member you are a full voting member as liaison it's purely communication flow back and forth.

Mr. Alonzo spoke to say that when we took the task of assigning volunteers as liaisons it was with two principals in mind and that was that the liaison would report back to this board anything that was of importance that the BOS needed to be aware of and it was always with the understanding that not participating beyond what you would be as a public attendee. If you have information that that board could use, you would be acting as an individual and not representing this board.

Mr. Ebersole mentioned that to participate, it's at the time of the open discussion and not after every topic, unless they seek your information. He would like a very simple job description for other board liaisons as to what there duties would or would not be.

Mr. Toale stated that he agrees with all that was said and pointed out that there are two different roles, the liaison role as BOS volunteers and there are some other boards that we serve on as members, and that should not be confused.

PACC- Mr. Ebersole reported that their meeting is next Tuesday and the Town Manager is making arrangements for them to meet with the BOS. The Architect and Construction Management Co. are doing a cost analysis of the project, then compare notes and come to terms with what the best solutions will be.

School Committee- No Report

School Building Committee- Mr. Matthews reported that information/layouts of the proposed building project were made available for viewing at the recent open houses held at the High School.

Sewer Commission- Mr. Ebersole reported that this board is working on finalizing there Rules and Regulations.

MA Broadband- No Report

**4. Town Manager Reports or Department Reports:** Ms. Speidel reported that a meeting with the Executive Director of the Nashoba Valley Regional Dispatch along with the two Chiefs from Lunenburg will most likely be schedule mid to late October. The Town of Harvard has yet to come on to the district due to issues of tying them into the system via fiber, and the Executive Director is currently occupied with that situation.

Ms. Speidel reported that she has set up an initial meeting with the Casino Developer later this week and has invited the Administrator in Townsend to participate. She is concerned with the potential impact of traffic on the Rt. 13 corridor and would like to get a better understanding of the project. She believes that this project has merit, but it is not a forgone conclusion that it will be licensed.

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

**PUBLIC COMMENT** - None

**EXECUTIVE SESSION** – Being no further business Mr. Alonzo stated that he would entertain a motion to go into Executive Session citing M.G.L. Chapter 30A, Section 21A (2), to conduct strategy sessions in preparation

for negotiations with non-union personnel and to conduct collective bargaining sessions or contract negotiations with non-union personnel. This discussion is for the Town Manager's Employment Contract renewal. We will not be returning to open session and the Chair so declares that.

Ms. Bertram moved to enter into Executive Session. Mr. Matthews seconded.

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

Regular Scheduled Meeting adjourned at 9:05PM

**UPCOMING MEETING SCHEDULE**

September 17, 2013

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