

**BOARD OF SELECTMEN
MEETING MINUTES
2/12/13**

[Handwritten signatures: JMB, PB, SMD]

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

7:00PM PUBLIC COMMENT

Betty McDonald, Island Road spoke to the BOS concerning the public's right to vote being taken away at last weeks meeting. Ms. McDonald stated that she was outraged and disgusted and directed her statement to Mr. deBettencourt who in turn asked her to address her statement to the entire board and not him personally. Ms. McDonald said that Mr. deBettencourt boasted about being elected for 23 years and stated that he was not elected to steal our right to vote. She then addressed Mr. Sund and said that regardless of the number of people he had heard from, he was elected to represent all of the people in town, not just a select few. She then thanked Mr. Matthews, Mr. Alonzo, and Ms. Bertram for defending the people's right to vote and for putting their trust in the people of Lunenburg to make their own decisions for the future of Lunenburg.

Dave McDonald, Island Road, spoke to the BOS concerning last weeks meeting. He said that concerning last weeks meeting he was amazed at what happened. He stated that this was not about the purchase of the land but rather the right to vote being taken away from the people. He asked Mr. Sund, as a Veteran and an American, why won't you let this go to vote for the people of Lunenburg?

Mr. Sund replied that it's not a matter of letting this go to a vote. He voted on the previous agenda to not approve the purchase of the land and he will not change his mind. He went on to say that as a Veteran and a servant to his Town and Country that's what he is doing.

Mr. McDonald remained concerned about taking away the towns people right to vote on this decision and stated that what happened last week scares him for the future because now you can do this, and anything you want, and that's not right. He asked the BOS to please let this go out to vote. He then asked Mr. Sund again why he will not let the Town vote on this.

Mr. Sund replied that he was elected to serve this board and to express the opinion of the majority of the people that he serves and that's what they indicated to him.

Mr. McDonald asked if he had over 3000 people tell him not to go to Town Meeting?

Mr. Sund replied it was the majority of the people that he polled.

Mr. McDonald went on to say that the basic fabric of America is the right to vote and he had sent Mr. Sund an email which took him 3.5 hours to compose which Mr. Sund did not reply to.

Mr. deBettencourt spoke to say that this is a Government process and if you can't gain the muster of the BOS it will not get that far. This is a process of Government and if you want to try to change it for the people to vote on everything that is out there then you have to start at the Legislature. If you can't get 2/3rds of the vote from the BOS the Legislation says that it fails.

Mr. McDonald questioned what the reasoning was not to let this go to Town Meeting asking if it was the cost and that they did not give a reason for this but were just beating around the bush.

Mr. deBettencourt stated that he did not think it was the right purchase for the Town. It's up to the BOS first, we voted on it and it did not pass.

Mr. McDonald asked Mr. Alonzo (acting Chairperson) if this could be reconsidered to let this go out for the people to vote on. By you taking away that little vote is going to be the start of something bigger and we need to do something about this today.

John Whalen, 526 West Townsend Road, spoke to the BOS saying that he agrees with Mr. McDonald. He said that Town Meeting is the most American form of Government that there is and to have the vote taken away from them offends him. If you believe we shouldn't be doing this that's fine, make your case to the Town and let the Town decide. When you bring things up to Town Meeting you may or may not win but you let the Town decide what is in the best interest of the Town. He mentioned that he has brought things up to Town Meeting and members of this board indicated that we were

militant in the fact that we spoke up when we saw our rights being trod on. These same people chose to vote down the opportunity to vote on this at Town Meeting and he is not impressed with that. He urged the BOS to reconsider this vote. He said that other boards voted in favor of this and he believes that the Finance Committee was also in agreement with it. He stated that with all these other boards, you two think you're more important than all of them and that their opinions don't matter, and you are going to override it instead of taking it to Town Meeting and making your case there.

Mr. Whalen asked how much has been spent in the last couple of years with this particular developer and parcel of land in legal fees.

Ms. Speidel replied roughly between \$60k and \$70k.

Mr. Whalen said that its money that's wasted and did they consider that when they made their vote. He also asked how much more revenue would 165 more properties bring in over a 10 year period?

Ms. Speidel responded that the average tax bill is around \$4k per year and the average spending on education is probably over \$10k.

Mr. Whalen said that this is short sighted decision making and that taxes may have to go up. He does not want to pay them either but it may be the right thing for this Town. He questioned what the impact would be on the water table with all of the new houses being built and what would be needed with sewerage and street lights. He asked the BOS to reconsider their vote.

Lars Widstrand, Sunnyhill Road, spoke to the BOS and stated that he witnessed something last week that never in his wildest dreams thought he would witness. He went on to say that being an engineer he is use to people backing up their ideas and positions with facts. This "knee jerk" reaction to say no to anything and everything just doesn't fly. At last weeks meeting two of the Selectmen took away the Towns people rights to analyze, discuss, and vote on land acquisition. He stated that they had no platform to stand on and that the term is "we the people" not "we the elected officials."

Mr. Alonzo spoke to the requests of reconsidering the votes. He said there was not a full board tonight and unless there is any motion from the people who voted against it they cannot do anything, although he personally would welcome the reconsideration of that vote.

Mr. Alonzo commented that technically what Mr. deBettencourt said is correct. The Legislature put this mechanism in place and those are the rules and he does not disagree with that. Mr. Alonzo went on to say that to use the reasoning that you vote against it because you could, not because you should or have real reasons for it was his big objection. When you do something because you can, you don't need to explain yourself, and you supercede your opinions for the opinions and discussion of the voters, that to him constitutes abuse of power. He said that he was embarrassed by the vote but feels more embarrassed that the two members who voted against it don't feel any embarrassment about what they've done and can't make the nuance that voting against people voting on it is not the same as voting against the question itself.

Ms. Bertram spoke in agreement with Mr. Alonzo's sentiments and thanked the people who came out tonight to speak. She said that in all the years that she has served this community I have never left a meeting so disheartened. She went on to say that she wanted to be clear with something that was said by one of the members that he voted against the purchase of the property. This board did not make a vote on the purchase of the property. The only vote that this board made was that three members voted to bring it to the people and it was not a vote to recommend the purchase. The basis for making this decision was based on the experts in Conservation and Planning who have made recommendation that we should look at this piece of property because of the importance of it. Last week two members of this board took away the peoples right to vote, that is not what we were elected to do, and I would welcome it if they would reconsider.

Mr. Sund thanked the people who came out to speak this evening. He apologized if his vote doesn't go their way but he still will not change his vote. The reason for this is the economy, we don't have the funds.

Ms. Bertram spoke and said it is not up to this board whether or not we have the funds, it is up to the people to decide. There are a number of issues facing this community. We are already facing a \$226k shortfall in our budget and we talked about creative ways of raising funds which I am for. The reality is we have a number of issues facing this community and to say that you don't feel we have the funds and not to bring it to the people scares me. Does that mean that you as one individual of a 5 member board are going to make those kinds of decisions and take them away from the people? We are here to make recommendations to the people and to put forth what we think makes sense but ultimately it is up to the people.

Jane Denike, 347 Highland Street, spoke to the BOS in support of the Mr. Sund and Mr. deBettencourt. She said that each member was elected to make decisions for this Town and we do not have a direct Democracy in this country, we have a

Representative Democracy. This Town put their trust through an election and elections have consequences. The people we elect have our trust and represent different views of this community therefore what you did is according to regulations. You have voted on Right of First Refusals many times in the past without going to Special Town Meeting, you made the decision that you have been entrusted to do. Ms. Denike went on to say that \$2.1m in a Debt Exclusion is essentially an Override except that there is an end to it after how many ever years we have borrowed it for. She feels that a \$2.1m purchase would impact the tax payers of this Town essentially the same way as an Override would do. She stated that a previous Override was defeated by an overwhelming margin. She said that she does not expect to go to Town Meeting over every big issue that comes before the BOS, that's why they were elected, they did what they were supposed to do and the vote came out the way it was. A Representative Democracy has worked. She feels that Town Meeting is becoming "Special Interest" and people come to vote on just what they are concerned with then leave without participating in the entire meeting.

Mr. Alonzo spoke and said that the amount is very different then the amount of the Override that failed last year. He said that a Representative Government is true on the State and Federal levels and in the Town of Lunenburg the Executive body would be this board. The Legislative body in this Town is open Town Meeting and it is a true Democracy, and its one of the reasons that I live in this Town. Everybody as a registered voter has the right to attend and as a Legislative body we bypassed that. This is the first time in my history that the BOS have preempted what other Boards have recommended.

Ms. Denike spoke her concerns of the Town buying up developable land which she feels holds back the Town in moving forward with building its tax base.

Mr. Alonzo replied that he did not disagree with that and this would be an argument you could have on Town Meeting floor but this could be part of a discussion that we are not going to have because of the vote.

Ms. Denike stated that she believes that everything was done the way it was supposed to be done, there's always issues where some are not going to be happy and she does not think that the Board has assumed the role of a Dictatorship and to be badgered and have terms thrown at you is not right.

Ms. Bertram stated that she was the one who used the term Dictatorship and her issue is that we have a 5 member elected Planning Board and they recommended to the BOS the purchase of the Aro property along with the Conservation Commission. This Board then dictated that we are not going to do that. We disregarded all opinions. At last weeks meeting there was no other information other than they did not believe the purchase was correct, or appropriate, and we did not have the funds. They did not argue against what the Planning Board or Conservation Board said with facts or concise arguments. They just made the decision because they did not feel it was appropriate and we were not going to bring it to the people. Ms. Bertram stated that she does not feel that this is what Government is about and Town Meeting is our form of Government. Never in her years on the BOS have they disregarded the other Boards recommendations because of our own personal opinions.

Ms. Denike said that the Conservation and Planning boards look at things with their particular expertise and that's fine. She feels that Mr. Sund and Mr. deBettencourt, as citizens that have been elected, also have the right to take into account their own considerations of the community as a whole. She believes that the statement of "they just disregarded everything" is not correct and that they may have a good feel for the pulse of the community which brought about the decision of their votes. They have a right to that consideration also. She believes that was done, was done properly, and therefore we live with it as a community.

Ms. Bertram spoke and said that to take away the right of the people to vote on something that will impact this community is wrong and unless you've spoken to 3000 people in this community you do not have the pulse of the community.

Mr. Whalen spoke and mentioned the Levite property, which was similar to the Aro property, that lost by 7 votes at a previous Town Meeting. He stated that you say you know the pulse of the community when a very similar property almost past at Town Meeting and he feels that this Board has not given a good reason for voting the way they did.

ANNOUNCEMENTS

Tom Alonzo announced that the Boys & Girls Club of Lunenburg will be holding a fundraiser at Lunenburg High School on March 7th at 7PM called "Are You Smarter Than a 6th Grader" and encouraged the public to attend.

APPOINTMENTS

7:00 p.m. – Transfer of Liquor License, Bangkok Hill to PP Group LLC d/b/a Bangkok Hill – Mr. Alonzo read into record the Notice of Public Hearing for the Transfer of Liquor License, Bangkok Hill to PP Group LLC d/b/a Bangkok Hill.

Mr. Robert Bowen, representing the applicant, explained that this is a transfer of the Liquor License at the present Bangkok Hill to PP Group LLC who is under contract to purchase Bangkok Hill. Other than changing the names of the corporations and the people that own them nothing else will be changing.

The BOS interviewed the applicant on his restaurant experience and asked when the TIP training would be taking place. Khamphet Savanpanyadeth, representing PP Group LLC said that this is his first time applying for a Liquor License and that the TIP training is in progress which he hopes to have completed a few weeks before the closing on the property.

Mr. Bowen spoke and said that the current P & S calls for a March 1st transfer date which is all contingent on the ABCC approving the license. If the license is not approved by then the parties will have to discuss extending the term. He is currently certified in New Jersey where he had been working and Mr. Bowen assumes that this will not be carried over into Massachusetts and stated that he will have to be TIP certified before the license can transfer, but it is all in progress right now.

Mr. Alonzo asked the applicant if he had an eating establishment with a liquor license before? Mr. Savanpanyadeth replied that he had worked in a restaurant a few years ago in Massachusetts where alcohol was served but never owned one.

Ms. Bertram questioned the timing of the transfer of the Liquor License. It was determined that they are just voting on the transfer approval then it will be voted on by the ABCC. After the ABCC approves, it will return to the BOS for the issuing of the license.

Mr. Sund moved to authorize the transfer of Liquor License from Bangkok Hill to PP Group LLC d/b/a Bangkok Hill. Mr. deBettencourt seconded. On vote motion carried, 4 in favor, 0 opposed.

CURRENT BUSINESS

1. Review and/or Execute Power Purchase Agreement and PILOT Agreement for Solar for Mass PV1 and/or PILOT Agreement for EPG Solar – Ms. Speidel updated the BOS on both projects as follows:

EPG Solar project is moving forward. The Twin City Baptist property is currently up for auction and when contacted by Ms. Speidel, EPG said that they believe it is just the property that the church is located on and the property that the solar farm will be on is not included. The developer told her that if it is included in the auction, they are willing to purchase the property at auction. If they do need to purchase this property it will delay the project by a few weeks.

Mass PV1 is no longer willing to sell the credits at the previously specified price of \$0.9 kW and sent a new proposal which included an offer to buy the credits at \$0.154. This new rate would apply to anything over 0.5 M. The first 500 kW would be sold at \$0.09. Mass PV1 has pointed out that the value of the credit had increased from \$0.171 to \$0.1989, because the price of electricity has increased. This was verified by John Londa, Director of Facilities for the Town of Lunenburg.

Ms. Speidel has directed Town Counsel to advise Mass PV1 that we are willing to purchase 100% at the original price of \$0.09. If this is not possible, then we would only be purchasing 500 kW at \$0.09.

The Attorney for Mass PV1, advised Town Counsel that unless the Town was willing to take 100% of the credits at the new rate, there would be no deal. Ms. Speidel believes that based upon the change in the offer, it does not make sense for the Town to purchase the additional credits as the opportunity for resale is more difficult due to the price increase and risk.

Ms. Speidel reviewed the Calculation of Value Credits with the BOS regarding the 1 MW EPG Project stating the following:

Value of Credit is \$0.1989 per kWh.

Initial Credit Purchase Price is \$0.1132, a savings of \$0.0578 per kWh

Credit purchase to increase 1.8% per year

Annual Savings in year 1 per 1MW is \$85,700 or 23%

PILOT payment is \$18,018

Total Revenue/Savings generated is \$103,718

Ms. Speidel said that she will first assume that Mass PV1 will sell the Town the 500 kW at \$0.09 which will save the Town \$54,450. If we just bought that they would still be building a 2 MW facility and they would still be receiving a PILOT on 2 MW. The total Revenue/Savings generated would be \$90,486.

If the Town were to buy another .5 MW the additional savings would be \$22,450 but we would have the added responsibility of reselling credits which would be hard to do. If the credit value went back to the original amount of \$0.171, the annual savings to the Town would be \$8500.

Ms. Speidel stated that she does not think that Mass PV1 has a buyer at \$0.171 and believes that they are trying to "strong arm" the Town.

Ms. Bertram spoke to say that she is not willing to enter into a PILOT. One of our conditions was that a PILOT would only be applicable for a Net Metering project for Lunenburg and if that is not the case then there will not be a PILOT.

Ms. Speidel stated that even with out this, there is still significant savings and she feels very comfortable with the EPG Project going forward.

Ms. Bertram stated that for Mass PV1 to come back at this point and to change the price is wrong and to move forward doing business with this kind of moving target does not make any sense. She emphasized that if they do move forward that any offer/agreement made was to be made in writing.

2. Further Discussion, Revenue & Expenditure Assumptions for 5 Year Forecast, FY1418- Ms. Speidel informed the Board that she is aware of the totals of the Capital Planning Recommendation and is currently awaiting the hard copy to arrive at her office.

Ms. Speidel's said that her budget recommendation is due out on February 15th. She will be putting the spread sheets together along with the narrative and they will be handed out at the Presentation of Town Manager's FY14 Recommended Budget at the FinCom meeting on February 28th.

Ms. Bertram reminded the board that at last weeks meeting a point was made to say whether or not we agree with the assumptions and until she gets some clarification on some of the Assumptions she cannot say that she agrees with them.

Mr. Alonzo reminded the board that since the Budget Working Group is no longer, they should be actively discussing the budget so they will be ready for it when it is presented.

Mr. deBettencourt asked Ms. Speidel if it was fair to assume that her numbers were close for FY14? Ms. Speidel replied that it is very close. Setting aside the school, the Superintendents recommended budget is somewhat higher than what the Town Manager's recommendation was. There is only a slight variation with what the rest of the Departments came in with.

3. Policies & Procedures: CORI – Ms. Speidel stated that back in December the BOS met with Labor Counsel, reviewed, and approved the CORI Policy. Counsel suggested that there would be further Administrative Regulations that would be adopted on an Administrative level by the Town Manager which are included in the handout to the BOS this evening. Ms. Speidel informed the Board that this is the process which they will be following when CORI checks are conducted. The Administrative procedures are to be implemented by the Town Manager and do not need approval by the BOS. Board members will review the handout and it will remain on the agenda for the next meeting for further discussion.

4. Minutes/Warrants/Action File Issues

Minutes: 2/5/13

<u>Warrants:</u>	17 P	\$635,302.66
	43-13	\$248,015.50
	44-13	\$308,078.72

Action File Issues: None

5. Committee Reports – Mr. Sund reported that the Capital Planning Committee met last Thursday and has submitted all information to the Town Manager for Capital Plan Requests.

Mr. Alonzo reported that he received correspondence from the Mass Broadband Institute stating that the project for the fiber backbone project is projected to be lit in this area in June of this year. Between now and that time we need to search

for companies that will do the "last mile". These companies will be hooking up from the backbone by renting or buying bandwidth from the project to supply to residences, businesses etc. We will need to get the Town's IT Director involved with this in order to connect Municipal Buildings. The only Town Building that is not included will be the DPW Building and it's too soon for an estimate as to what the cost would be to connect that building.

6. Town Manager Reports or Department Reports – Ms. Speidel reported that there will be a Special State Election to fill Senator Kerry's seat. The Primary will be held on April 30, 2013 and the General Election will be in June. The State Legislature passed a law which allows Cities and Towns to move their Annual Elections to either the State Primary or State General Election date. The Board of Registrars met today and discussed suggesting to the BOS that the Annual Town Election be moved from the middle of May to the April 30th date. This would require a vote by the BOS and will be on next weeks BOS agenda. If changed, it would impact the date of the Town Caucus and Ms. Speidel would like a decision by the BOS at next weeks meeting on this matter.

Mr. Alonzo questioned if we have the Town Election earlier, can we make it so you do not effectively take office until when the original election date would have been so as not to disrupt the terms? Ms. Speidel will check into this matter for clarification.

Ms. Bertram was concerned that if the date is moved up, do we want to go through the process of interviewing the Planning Board Candidates? Ms. Speidel replied that the Planning Board had scheduled their own interviews for last evening, but the meeting was cancelled due to weather and has not been rescheduled yet.

Mr. Alonzo thought that it didn't make sense to appoint someone for 6 weeks and it would be better to just let them run for the position.

OLD BUSINESS - None

APPOINTMENTS/RE-APPOINTMENTS/RESIGNATIONS –

1. Reserve Police Officers: Stan Barney, Peter Lekaditis – Ms. Speidel stated that Chief Marino requested that the Town Manager Appoint Stan Barney and Peter Lekaditis as Reserve Police Officers. Mr. Barney is currently retired from the Lunenburg Police Force and Mr. Lekaditis has just finished the Reserve Police Academy. Mr. Lekaditis was unable to attend tonight's BOS meeting due to the fact that his graduation from the Academy was this evening but will be able to attend next weeks meeting to introduce himself.

Mr. Alonzo stated that the Town Manager makes these Appointments under Section 4-2 (c) of the Town Charter and they will become effective on the fifteenth day following this notice, unless we move to ratify sooner.

Ms. Bertram moved to ratify the Appointments of Stan Barney and Peter Lekaditis to Reserve Police Officers. Mr. deBettencourt seconded. On vote motion carried, 4 in favor, 0 opposed.

2. Council on Aging: Whitney Lacka – Ms. Speidel informed the Board that the Council on Aging has asked to hold on this Appointment.

PUBLIC COMMENT –

Mr. deBettencourt thanked the DPW workers for their dedicated work during the recent snow storm and Mr. Sund also thanked the public for staying off of the roads during that time.

EXECUTIVE SESSION – None

Being no further business Mr. deBettencourt moved to adjourn the meeting. Ms. Bertram seconded.

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

Meeting ended at 8:37PM.

UPCOMING MEETING SCHEDULE

February 19, 2013

Thursday February 28, 2013 – Presentation of Town Manager’s FY14 Recommended Budget

Respectfully Submitted,
Susan Doherty, Recording Secretary
Board of Selectmen