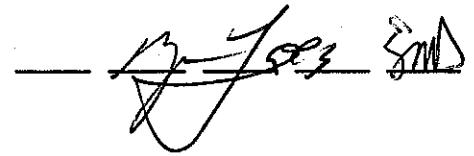


BOARD OF SELECTMEN  
MEETING MINUTES  
9/21/10



The Board of Selectmen met in the Town Hall, Joseph F. Bilotta Meeting Room as scheduled with Paula Bertram, Steven M. deBettencourt, Tom Alonzo, Dave Matthews and Town Manager Kerry Speidel present, Ernie Sund absent. Meeting opened at 7:00 P.M. with the Pledge of Allegiance

**PUBLIC COMMENT**

Tom noted the Candidate's debate is scheduled for next Monday, September 27<sup>th</sup> @ 7:00 PM, Town Hall

**ANNOUNCEMENTS**

1. Public Forum on CDBG Grant Application for Eagle House Parking Lot Project, October 5, 2010 @ 6:00 PM – Scheduled to be at Town Hall and outside of the Board of Selectmen meeting

2. Yard Waste Days - Yard Waste Days, October 16<sup>th</sup> to November 20<sup>th</sup> at closed Landfill, Youngs Road.  
Also, Saturday October 23<sup>rd</sup>, Recycle Your Reusables event at Ayer High School.

**RECEIVED & FILED**

NOV 15 2010

**APPOINTMENTS**

**LUNENBURG TOWN  
CLERK OFFICE**

**CURRENT BUSINESS**

1. Assent to Transfer Proctor Trust – Per Kerry, T.D. Bank North is requesting that the Board of Selectmen consent to the transfer of the Trust from TD Bank North to the Community Foundation of North Central Massachusetts. Funds from this trust will continue to be available to Lunenburg students, it's just changing the manner that the Trust is managed. School Superintendent, School Committee and High School Principal have all received consent forms. Noted that this is clearly defined for the benefit of Lunenburg students. Tom move to sign the document for the boards approval over to the Community Foundation, Steve seconded, voted unanimously and signed.

2. Dates to Open and Close Special Town Meeting Warrant – Dave motion to open the warrant for the November 30<sup>th</sup> Special Town Meeting tonight, Steve seconded, voted unanimously. Board will discuss the articles and recommendations for the October 19<sup>th</sup> Board of Selectmen meeting. Tom move to close the warrant at 5:00 PM on October 18, 2010, Steve seconded, voted unanimously.

3. State Ballot Questions – Kerry provided the attached information from the Secretary of State's Office and MMA's websites on the ballot questions, which presents the facts on what the financial impacts would be. Paula reviewed the questions and impacts on the reduction in revenues, these impacts could be astronomical to the Town of Lunenburg. Dave would be in favor of question #1. Tom would like to see a vote of this board as to what the impact to the town would be and would agree with Dave on question #1 as this is double taxing alcohol sales. Steve concurred as he wouldn't have voted for it and believes that this will pass substantially. As all three of these ballot questions affect the town the board voted unanimously to recommend a "yes" vote on Question #1.

Question #2, Paula believes that a town should have the ability to charter its own course and would personally vote to repeal this law. Dave concurred as maintaining the housing stock in a small community is difficult. Noted that there are a number of affordable homes in town that are not counted towards our quota and would definitely support repealing this decision.

Tom there should be some legislation that allows for affordable housing unfortunately, 40B doesn't address major issues that towns have. Suburban communities have tried to amend 40B and was not recognized the inclusion of mobile homes, but DHCD instituted new regulations last year that only furthered their power. They're not taking into consideration the local housing needs and needs to be repealed and replaced and built up with more of a consensus of the town's as to how this would operate. Would be for the repeal of 40B. We've tried to change the things that were not working and if this is not repealed the legislature will never make any changes, the legislature will realize that this needs to be rebuilt from the ground up again.

Steve has seen in our community one 40B that has worked and one that hasn't. It's Boston lawmakers making laws for Boston, doesn't fit out here. Acknowledged that there should be something for communities out here but is all for repealing as right now it's all up to the developers.

Board voted unanimously to repeal Question #2.

Question #3, Dave's concern is that going to 3% is too far and cannot support, different if it were to go back to 5%. Paula concurred as a reduction to this extent would cripple the town. Tom and Steve also concurred and voted unanimously for a "no" vote on Question #3.

4. Minutes/Warrants/Action File Issues – No minutes, Warrants: #14 11, 9/22/10 - \$241,130.93, #15 11, 9/22/10 - \$568,905.48 and #6M 11, 9/23/10 - \$2,020.85 reviewed and signed.

Action file – Tom commented that the televised meetings are for the benefit of the townspeople and too often he is finding out about things behind the scenes and would prefer these issues be brought to the meeting.

Dave questioned when we will be coming back to the issue on the Lake Shirley Dam. Kerry will have to make CD's of the plan to disperse as they were too large to send electronically. She has spoken with the Shirley Fire Chief and he will be bringing his information to the Shirley Board of Selectmen before it's made public and would expect that this information will be provided within the next month. Paula noted that she still wants to identify an evacuation protocol as to how they are going to contact their (Shirley). Dave it's up to us to let them know that there's a problem, need to note that there is a divide here and need to let them (Shirley) have their process. Kerry clarified that the one issue that the Chief (Shirley Fire) has is the release of the names and addresses of the property owners and the Shirley Fire Chief wants clarification from the Town of Shirley Selectmen.

Paula would like to see the invoice from Weston & Sampson before it's placed on the warrant for payment. Noted that it's important to include the schematics on the dam within the EAP document. One of the holes that she still sees on the EAP is the equipment that's owned by the Water District and knows that Chief Glennly has a listing of equipment that the town has as this was included in the Hickory Hills EAP and the same should hold true for the Town of Shirley.

#### 5. Committee Updates -

- Paula attended the Planning Board meeting last evening; they are discussing the Master Plan and changes that will need to be addressed and impacts to the town. Distributed a lot of information to members of the board and information will be posted to the website. Next workshop on Master Planning will be on October 18<sup>th</sup> and will delve more into the specific sections. Will also be addressing the current zoning in town, particularly the current industrial / commercial area along Leominster Shirley Road. Looking at the town as a whole to see what makes sense and the population with the recent developments in town and how to maintain the rural areas of the town. Chair (Planning Board) also discussed the Open Space Plan as this is a component under the law that is required, the question is who exactly is responsible for this portion, the Planning Board or the Conservation Commission. Discussion was also about instituting an Economic Development Committee to entice businesses be it through a streamlined permitting process.
- Steve DPW Building Committee met yesterday with potential firms on the building project and is still progressing on date. The Sewer Commission has had Weston & Sampson in and are still working through the process. Still have some issues on the charges for their rates and how they are assessed based upon the increases from the rates from the communities with the IMA's (Fitchburg & Leominster). Want to keep them at par with each other.

#### 6. Department Updates - None

#### 7. Town Manager Updates –

- Kerry attended the prebid conference for the DPW Addition RFP and spoke with some of the bidders and the engineers were asked on the side about the budget projection and the feed back was that the budget was very reasonable for this type of facility. The engineers that were there were also very complementary to the work that has been done and will be beneficial to the vendor that is finally decided upon and the message was received by the proposers loud and clear that we have the concept, we only need final design.
- **Press Release on Citizens Advisory** on the number of break in's in Lunenburg. The Police Department has investigated 14 house breaks since September 1<sup>st</sup>. Suggestion is to lock homes and vehicles at all times, to photograph expensive items in homes and keep a listing of their property.
- Lakefront Road is currently closed from the roundabout to Scooters, we have been running this information on the cable scroll. All establishments remain open however can only be accessed from the Leominster side. Open to emergency vehicles and anticipate will be closed until Wednesday, September 29<sup>th</sup>.
- Summer Street, no funding set aside yet for design. Received information from MassWorks Infrastructure Program as this may be an opportunity for the Town of Lunenburg to support economic development i.e., PWED Grants, Small Town Rural Assistance Program. As we have the 40R development and the state seems to be very impressed, perhaps we could get the state a bit more interested to maybe come up with funding for design as this is in the same general area of the Tri-Town project. Trish Domigan contacted Victoria McQuire, Executive Office of Communities and Development and is attempting to get a meeting together within the next couple of weeks. Dave noted that the 40B proposed project is also in that area of town.
- Kerry has received some questions on the IT Department and we've made quite a bit of progress. Currently we have an IT Director that handles network issues for the town and the school. The school currently has a vacant position for a data management and school accounting position and right now they are currently advertising for a combined position. Noted that there was also a technician that worked part time for the school who has recently gone back to school and as such the IT Director has been handling these functions. On the Town's side our technician has been out for a number of weeks due to a serious health condition in the family and as such, Kerry met with the IT Director to go over the outstanding issues with this department. We may have to bring in someone on a temporary basis to cover the town's technology issues. Paula's concern was that when we went with a Network Administrator and by combining the positions we're still going have a need to address our issues and ensure that we have enough resources to address all of those. Kerry noted that right now the big drain is

because of the number of devices and the hours of use is demanding. The school has advertised for three part time technicians to cover their needs. Need to wait and see how this goes, hope to be able to maintain this model, but we need to keep it staffed and positions cannot remain vacant. Currently the demand seems to be on desktop support technicians and this is what the school department is advertising for right now.

- Website Committee met and evaluated three different proposals and have unfortunately not been able to have enough time with our IT Director. We want to ensure that the current technology that we're using is compatible with what the proposals utilize.

## **OLD BUSINESS**

1. **Request for Proposals – Power Provider Company** – Kerry provided a sample proposal that the Town of Concord has recently used and yesterday it was made clear to her that given the legislation as it stands Unitil or any electric utility is only required to purchase 1%. In the wind energy bill; there is a cap from 1% to 2%. Representative Benson will be meeting with legislatures on the cap and she felt that if there were no opposition she could take that out and act on that rather quickly. Before she undertakes this project she would like to at least know that there is someone who would be interested in purchasing this energy. Would recommend at this point in time that we hold off until we hear from Representative Benson on whether this will move forward through the Legislature. Also needs to verify that there would be no issue with putting this on the landfill. Item will be placed on the agenda for the first meeting of October for an update.

2. **10 Year Budget Retrospective** – Kerry noted that member Alonzo has requested this, but would like to be sure that the board has a consensus of what they would like to see. Tom would like to see something in actual dollars, adjusted dollars (by inflation) by department, staff levels and basically charting it out, where have the departments tracked in dollars and employees. Kerry noted that the 5 year look back that she did previously could be used to include with the five years forward and will do out for 10 years back and five years forward, to also include population and service levels. Will include changes in equipment and how we process, i.e. technology.

## **COMMITTEE APPOINTMENTS/REAPPOINTMENTS/RESIGNATIONS**

1. **Appointments: Kiiirja Paananen & Caroline Griffis to Cultural Council** – Present was Caroline Griffis and Peter McCarron, Chair of Lunenburg Cultural Council. Peter informed the board that Kiiirja was not able to attend the board meeting as she attends class. Caroline informed the board that she's lived in Lunenburg nearly all of her life, comes from a corporate environment and she would like to change her career path to something more local. Tom move to appoint, Steve seconded, voted unanimously. Tom spoke of Kiiirja and she has been before this board before as she is a member of the Town Forest Committee and would give her a recommendation. Tom motion to approve appointing Kiiirja, Steve seconded, voted unanimously.

2. **Resignations: Kenneth Jones from Conservation Commission** – Board accepted Ken Jones resignation with regrets, letter to be sent expressing board's appreciation. Paula noted that there is currently an associate member on the Conservation Commission and as was not placed on tonight's agenda will be placed on the next agenda.

## **EXECUTIVE SESSION**

1. **M.G.L. Chapter 39, §23B(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 litigation position. Also to conduct strategy sessions in preparation for negotiations with non-union personnel; to actually conduct collective bargaining and contract negotiations with non-union personnel.**

## **UPCOMING MEETING SCHEDULE**

October 5<sup>th</sup>  
October 12<sup>th</sup>  
October 19<sup>th</sup>

Being no further business board voted unanimously to adjourn Regular Session at 8:28 P.M. and opened Executive Session by roll call vote; Steve aye, Tom aye, Paula aye, and Dave aye, at this time for the purpose of discussing contract deliberations when having in open session would be detrimental to the town's negotiating strategies, MGL Chapter 39, §23B (3). Chairman announced that the Board would not be returning to Regular Session.

Respectfully submitted,

Laura Williams, Chief Administrative Assistant  
Board of Selectmen

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William Francis Galvin, Secretary of the Commonwealth

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## QUESTION 1: Law Proposed by Initiative Petition

# Sales Tax on Alcoholic Beverages

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives before May 4, 2010?

## SUMMARY

This proposed law would remove the Massachusetts sales tax on alcoholic beverages and alcohol, where the sale of such beverages and alcohol or their importation into the state is already subject to a separate excise tax under state law. The proposed law would take effect on January 1, 2011.

**A YES VOTE** would remove the state sales tax on alcoholic beverages and alcohol where their sale or importation into the state is subject to an excise tax under state law.

**A NO VOTE** would make no change in the state sales tax on alcoholic beverages and alcohol.

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## QUESTION 2: Law Proposed by Initiative Petition

# Comprehensive Permits for Low- or Moderate- Income Housing

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives before May 4, 2010?

## SUMMARY

This proposed law would repeal an existing state law that allows a qualified organization wishing to build government-subsidized housing that includes low- or moderate-income units to apply for a single comprehensive permit from a city or town's zoning board of appeals (ZBA), instead of separate permits from each local agency or official having jurisdiction over any aspect of the proposed housing. The repeal would take effect on January 1, 2011, but would not stop or otherwise affect any proposed housing that had already received both a comprehensive permit and a building permit for at least one unit.

Under the existing law, the ZBA holds a public hearing on the application and considers the recommendations of local agencies and officials. The ZBA may grant a comprehensive permit that may include conditions or requirements concerning the height, site plan, size, shape, or building materials of the housing. Persons aggrieved by the ZBA's decision to grant a permit may appeal it to a court. If the ZBA denies the permit or grants it with conditions or requirements that make the housing uneconomic to build or to operate, the applicant may appeal to the state Housing Appeals Committee (HAC).

After a hearing, if the HAC rules that the ZBA's denial of a comprehensive permit was unreasonable and not consistent with local needs, the HAC orders the ZBA to issue the permit. If the HAC rules that the ZBA's decision issuing a comprehensive permit with conditions or requirements made the housing uneconomic to build or operate and was not consistent with local needs, the HAC orders the ZBA to modify or remove any such condition or requirement so as to make the proposal no longer uneconomic. The HAC cannot order the ZBA to issue any permit that would allow the housing to fall below minimum safety standards or site plan requirements. If the HAC rules that the ZBA's action was consistent with local needs, the HAC must uphold it even if it made the housing uneconomic. The HAC's decision is subject to review in the courts.

A condition or requirement makes housing "uneconomic" if it would prevent a public agency or non-profit organization from building or operating the housing except at a financial loss, or it would prevent a limited dividend organization from building or operating the housing without a reasonable return on its investment.

A ZBA's decision is "consistent with local needs" if it applies requirements that are

reasonable in view of the regional need for low- and moderate-income housing and the number of low-income persons in the city or town, as well as the need to protect health and safety, promote better site and building design, and preserve open space, if those requirements are applied as equally as possible to both subsidized and unsubsidized housing. Requirements are considered "consistent with local needs" if more than 10% of the city or town's housing units are low- or moderate-income units or if such units are on sites making up at least 1.5% of the total private land zoned for residential, commercial, or industrial use in the city or town. Requirements are also considered "consistent with local needs" if the application would result, in any one calendar year, in beginning construction of low- or moderate-income housing on sites making up more than 0.3% of the total private land zoned for residential, commercial, or industrial use in the city or town, or on ten acres, whichever is larger.

The proposed law states that if any of its parts were declared invalid, the other parts would stay in effect.

**A YES VOTE** would repeal the state law allowing the issuance of a single comprehensive permit to build housing that includes low- or moderate-income units.

**A NO VOTE** would make no change in the state law allowing issuance of such a comprehensive permit.

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## QUESTION 3: Law Proposed by Initiative Petition

### Sales and Use Tax Rates

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives before May 4, 2010?

#### SUMMARY

This proposed law would reduce the state sales and use tax rates (which were 6.25% as of September 2009) to 3% as of January 1, 2011. It would make the same reduction in the rate used to determine the amount to be deposited with the state Commissioner of Revenue by non-resident building contractors as security for the payment of sales and use tax on tangible personal property used in carrying out their contracts.

The proposed law provides that if the 3% rates would not produce enough revenues to satisfy any lawful pledge of sales and use tax revenues in connection with any bond, note, or other contractual obligation, then the rates would instead be reduced to the lowest level allowed by law.

The proposed law would not affect the collection of moneys due the Commonwealth for sales, storage, use or other consumption of tangible personal property or services occurring before January 1, 2011.

The proposed law states that if any of its parts were declared invalid, the other parts would stay in effect.

**A YES VOTE** would reduce the state sales and use tax rates to 3%.

**A NO VOTE** would make no change in the state sales and use tax rates.

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## Ballot questions could affect FY11 local aid



September 01, 2010

Two of the three binding questions headed to the Nov. 2 state election ballot would significantly reduce state tax revenues, beginning this year, making another round of deep cuts in municipal and school aid programs likely.

Question 3 would reduce the state's sales tax rate from 6.25 percent to 3 percent effective on Jan. 1, 2011.

The sales tax is forecast to bring in about \$4.8 billion this year under the current rate, accounting for about a quarter of all state tax collections. Question 3 would reduce collections by about \$1 billion below the amount used to balance the state's fiscal 2011 budget. Over a full year, Question 3 would reduce sales tax collections by more than \$2.5 billion.

Question 1, meanwhile, would eliminate the sales tax on beer, wine and other alcoholic beverages, a change that would reduce tax collections by about \$110 million over a full year. The change would also take effect on Jan. 1, 2011.

Questions 1 and 3 come at a challenging time for state and local finances in Massachusetts. State tax collections for fiscal 2011, under the current forecast, are still lower than any year since fiscal 2007. The state budget, including deep municipal aid cuts, is balanced using one-time and temporary revenues that, for the most part, will not be available for fiscal 2012.

While the governor and legislative leaders have not announced plans for a response to possible voter approval of one or both of these questions, the MMA is developing planning scenarios to help cities and towns figure out what the impact of mid-year aid cuts could be on municipal and school budgets later this year and in fiscal 2012.

In 2008, voters by a wide margin rejected a ballot question that would have abolished the state's personal income tax.

The other 2010 ballot question, Question 2, would repeal Chapter 40B, the state law that allows property developers and builders to skirt certain local zoning and land use regulations if a portion of the housing units are subsidized and restricted to ensure reduced sales and resale prices.

All three questions originated as initiative petitions in 2009. Supporters gathered the necessary signatures (at least 66,593) in the fall of 2009, and an additional 11,099 signatures last summer to reach the ballot this November.

For more information about the ballot questions, visit the secretary of state's website