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**BOARD OF SELECTMEN**  
**MEETING MINUTES**  
**3/10/09**

The Board of Selectmen met in the Town Hall, Joseph F. Bilotta Meeting Room as scheduled with Thomas Alonzo, Paula Bertram, Steven M. deBettencourt, Dave Matthews and CAFO Kerry Speidel present, Thomas Mason absent. Meeting opened at 7:10 P.M. with the Pledge of Allegiance

**PUBLIC COMMENT**

Dave expressed appreciation to the residents that attended last night's caucus and to those candidates that are interested in serving. Chair expressed appreciation to the Finance Committee, CAFO and participating department heads on their televised meeting this past Saturday.

Marion is questioning if someone knows who dropped the blueprints for Hickory Hills to the Planning Board Office, as she would like to recognize the donor as this is very exciting to all of us. She has had both of these framed as these gentlemen were our first planners and would like to acknowledge receipt of this gift.

Lois Block provided the attached information, request for the boards review and for support services for the Teen Center facility as it provides a valuable service to the town. Michelle Belleza, Teen Center Director informed the board of what is being accomplished at the center; most of which is identified within the attached newsletter. She has been with the center for about a year and they are now serving about 90 families in the area, have received about \$30,000 through a grant in collaboration with the school department. Been able to reward and recognize the kids for what they do. Reviewed the number of programs that they offer to students on a weekly basis, have been able to hire tutors and teachers to assist the students and have received excellent feedback from the teachers. Reviewed a few letters that have been received from student members of the team center.

Lois reiterated that the building was gifted to the town and that it has up until now been self-supporting however, many of the grants do not allow for utilities but for programs. Need support to fill in the gaps with the facilities costs, not the time to go back on their services.

Mark Souza, of Hemlock Drive stated that he has been involved with teen center and we do realize the financial constraints, but have to recognize the value of the services that we're offering to the town and the families. Noted that even if we were to not be able to use this building the town will stay have to fund to maintain the building, whether we're there or not; oil and electric costs, should be factored into this.

Dave would like to consider this request and where this is going as we're talking about reducing work force in the town. Questioned if the plan was to be stand alone, which was the plan originally. Per Lois the plan had been to stand alone, has been a process whether we can get support from outside sources. This has become less and less available and Lunenburg falls into the cracks because we don't have the demographic needs such as Fitchburg and Leominster.

Steve not extremely unrealistic, has been operating for 9 years and felt that at some point in time, they'd be coming to us. Congratulate the center for going as long as they have, had to seriously consider this. Paula concurred with Steve, this is a town building and we need to look at, questioned if they know what their budget for next year looks like.

Lois not sure, there is some remaining money in their coffers and another grant opportunity may be available.

Chair, were it any other year would have no qualms, but where we're looking at laying off 4.5 employees, not sure that we'll even be able to find even this if we can even save one position we're going to have to look at this. Will be placed on agenda for next week.

Rob Bowen also informed the board of the attached decision of the MART board vehicle replacement and questioned if the board has any concerns that they would like expressed to the Advisory board. Our assessment last year was \$26,831 last year and for this coming fiscal year, it's at \$28,501. Chair's concern on the purchase of the two SUV's was for testing in the winter, and why couldn't they have been either rented or leased for the winter. Read response from Mohammed Kahn in response to Mr. Bowen's questions, normal MART procurement which is for general review of its performance and gas saving options, however is approximately \$5,000 more than the normal replacement procurement. Board would like to have Mr. Bowen bring back to the MART representatives the displeasure in this type of expense. Would like to see an explanation as to what the vehicles are being used for and at this time, we need to be spending within our budgets.

Dave Blatt update on PTO and events coming up;

- Feb 27<sup>th</sup> was the First Annual Survivor Lunenburg event, congratulated winner.
- March 19, 2009 will be Lunenburg Days at Cocoa Keys, great event as it's a half day of school, \$20 tickets on sale for \$16 only on the website from 2:00 pm on.
- Also, Career Day, looking for volunteers to speak at the schools, has over 50 volunteers.
- April 3, 2009 second annual Barn Dance for kids ages from four to 100 plus, for good ole family fun at High School Gym and Cafeteria.

- Also would like to be able to use the old primary school for holding a yard sale and to be able to use inside, towards end of May, so wouldn't have to worry about electricity.

## **ANNOUNCEMENTS**

### **APPOINTMENTS**

**1. 7:15 P.M. Common Victualler License Application, Lunenburg Exxon, 453 Mass. Ave.** – CAFO recommends that this be held as there is some question whether we can issue in the name of Exxon as the property is now under Gulf, will confer with Town Counsel.

**2. 7:30 P.M. Public Hearing, Pole Location, Sunnyhill Road** – Tom opened the public hearing for a Joint Owned (J.O.) Pole from Verizon New England Inc., and Fitchburg Gas & Electric, d/b/a Unitil to place two (2) new jointly owned poles on the easterly side of Sunnyhill Road. Verizon representative, Mr. Burns was present regarding the request, informed the board that there is currently no existing service and need to provide to fiber to the cell tower. There are no driveway cuts located near pole placements, poles are being located on an undeveloped lot. Carnivales and Beverly's abutter's of 327 Sunnyhill Road reviewed the plan. Jim Carnivale has concerns with the placement as there is an existing easement and that was granted in violation as the easement strickly provided for a power line, nothing to do with the cell tower.

Chair would give the Carnivales the opportunity to discuss the cell tower with the Water District and will table this hearing for two weeks so that the abutters can confer and give them more time. Paula would like to be sure that we know exactly what the purpose of the poles are going to be and what are the poles that are being run through the Carnivales property. Mr. Burns will meet with the Carnivales at the site within the next couple of days and will contact Fran McNamara @ the Water District. Meeting postponed until March 24<sup>th</sup> @ 7:30 PM.

**3. 7:45 – 8:00 P.M. Interviews** – Utilities Task Force to investigate the feasibility, obstacles and benefits of forming a municipal electric company.

- **Robert Bowen** – of 1686 Mass. Ave. – practicing attorney, municipal and legal experience towards guiding this committee through this process. Would approach with an open mind, need alternatives, choices, don't know if viable option or not. Know of grant money that may be available from the regional planning commission, three of the four affected community's are in the MRPC district. However, grant cycle is at the end of this month.
- **William Gustus** – of 19 Burke Street – town administrator in another community, has extensive experience with communities that have had both private and municipal utilities. Town he is currently employed in, is serviced by two other neighboring municipal utilities. Status quo is not the best thing but we need to know whether a municipal utility company may not be the best answer, need to consider the options. There are all types of things to consider, it's not easy to provide out costs associated with operating a municipal electric company. Tremendous amount of information that needs to be gathered. This committee and what it is doing in the public hearing process is important to make Unitil understand that we're not happy with what has happened.
- **R.J. Thibault** – of 800 West Street – holds a finance degree and currently employed as a financial analysis, understanding costs, rate of return information. Have a conservative outlook, and would be willing to volunteer his financial background. No municipal background. Looking at pursuing the option of a municipal utility is a worthwhile option to investigate.
- **Carl Klempner** – of 44 Hemlock Terrace – a management consultant, has worked for a number of utility companies. Cleveland public power which is a municipal, from maintenance to expanding the system that they have. Questioning if the objective of the town is crisp at this time, have heard the three options. Would suggest tightening up the objective in terms of the system the generation piece, transmission and distribution. What we're talking about is the distribution of the electricity being purchased average efficiency is between 90% and 96%. Need to know the size of the customer base, what all the bills add up to, several components in a utility business. Infrastructure needs to be in place to support customer service, people responsible for upgrades, trouble crews, facility management and inventory of the poles and equipment, many components and reasonably involved. Can help with knowing where the hidden costs are, would recommend speaking with other municipal utilities.
- **Carolynn McCarthy** – of 23 Valley Road – engineering degree, interested in helping with commission as very passionate that something needs to be done and one way is to look at option of forming a municipal electric company. As a rate payer, she calculated what she has paid over the past few years and compared to what Groton has to offer as a municipal utility company.
- **Christopher Johnson** – of 654 Mass. Ave. - absent, office will contact Mr. Johnson and Ruth Ste. Marie and schedule interviews with them for next week. Intent of board is to review next week and make the final determination. Composition on size of task force will also be determined next week.

**4. 8:00 – 8:15 P.M. Interviews – Green Community Task Force** – Marion Benson infomed the board that this task force should be asking to look into what the Green Community's Act would bring to the Town of Lunenburg and options that would be available.

- **Lisa Krowitz** - of 95 Stonefence Road – bachelor's in chemistry, masters in environmental science. See ways that we can try to conserve our resources and what's going on in the world. School settings alone that can look at heating, cooling options. Recycling options available for the town, able to dedicate a lot of time to this. Need to start with education and what's out there, start with the kids is a good place to start, composting, double siding paper, it takes effort to conserve a number of simple ways to start. Not against looking at other alternative sources of energy, ie; wind but understands the controversy.
- **Joanne McQuaid** – of 30 Cushing Lane – aware of issues at the schools as has been employed at the high school for 14 years. Have been proactive in getting the students to realize what should be done to conserve. Audit program is available, town vehicles, fuel emissions etc. Have served on other committees in town and felt it was time to get involved again as very passionate about this.
- **Steven Marsden** – of 475 Mulpus Road – involved with the Green Initiative, look at this from building facilities aspect. Energy Inspector certified and in process of being a LEADS certified inspector. Grant money available for municipalities to do energy audits, similar to what power companies do to cut energy costs now. Put in new windows, insulation and other options. Tremendous opportunities in solar and geothermal processes.
- **C. Ernie Sund** – of 1454 Lancaster Ave. – hydraulic industrial control background, looking at energy reduction / consumption is a major thing that could be looked at in municipal buildings is a tremendous way to save. Involved with Board of Assessor's and Board of Health and familiar with opportunities for geothermal, hydropower, wind and solar. Worked with wind power turbines, manufacture of them and controls. A few options may be available for the town, but they would have to be looked at.
- **Courtney Zivojinovic** – of 239 South Row Road – general contractor for seven years. Working every day using more green products, good knowledge about green building in a residential level than on a commercial or residential level. A large part of the act speaks about lowering residential energy costs. Important to look long term effects.
- **Patrick J. Slattery** – of 139 Leominster Road – practicing architect been in business for over 30 years, work daily with all types of building codes. Currently working with a geothermal project, and combination of materials.

Determination as to composition will be determined next week as will the appointments.

## **CURRENT BUSINESS**

### **1. CAFO Updates**

### **2. Minutes - None**

**Warrants** - #48 09. 3/10/09 - \$624,519.44 reviewed and signed.

### **3. Action File Issues – None**

### **4. West Street Parcel, Sale of Land – Tabled to 3/24/09**

### **5. Budgets – no action**

**6. ICMA RC 457 Plan** – CAFO requested the board approve an option for a supplemental retirement plan that is funded 100% by the employee, similar to a 401 Plan in the public sector and on the school side there are 403B plans, which has 23 options. One difference that this plan offers is that employees could take loans off of their plans and seems may be beneficial to offer, asking board to adopt the resolution that is attached. Board voted unanimously to approve.

**7. MRPC Daily Traffic Count Request** – will be placed on agenda for 3/24/09, have received a few submittals from town boards and will provide to the board.

## **OLD BUSINESS**

### **1. Committee Updates**

- Finance Committee budget review meeting of this Saturday will be rebroadcast everyday, March 12<sup>th</sup> – 15<sup>th</sup> at 5:00 PM.
- Capital plan is preparing a draft request at just under \$250,000, bare bones requests.

**2. BYOB Regulations** – Paula motioned to adopt the attached BYOB regulations, Dave seconded, voted unanimously.

## **APPOINTMENTS/REAPPOINTMENTS**

**1. Utility Task Force** – appointments scheduled for next week.

**2. Green Community Task Force** - appointments scheduled for next week

**3. Historical Commission** – Patrick Slattery, 139 Leominster Road referred to his resume, which shows long history is historic buildings and would like to serve on the commission. Demolition delay bylaw is a good thing to have and should be handled on an individual basis. If used properly then it's fine. Historical resources, town owns a few of them, unsure as to what degree there is an inventory, aware of the history book that has been done. To what degree the historic commission has kept these records up to date, not sure of, there could be some more organization and focus on the historic commission. Willing to serve on two committees.

## **EXECUTIVE SESSION**

### **1. Litigations Strategies**

Being no further business board voted unanimously to adjourn Regular Session at 9:24 P.M.

Respectfully submitted,

Laura Williams, Chief Administrative Assistant  
Board of Selectmen

# **LICENSE COMMISSION**

## **Bring Your Own Bottle Regulation**

### **“Carry-In” Intoxicating Beverages Policy**

#### **1. Definitions**

For purposes of this Policy, the following terms shall have the following meanings:

“Board” shall mean the Board of Selectmen acting as the Town’s local licensing authority for common victuallers under M.G.L. Chapter 140.

“Policy” shall mean this Policy applicable to Carry-In Permit for intoxicating beverages to restaurants operated by common victuallers.

“Carry-In Permit” shall mean permission granted by the Board to a common victualler under this Policy to allow intoxicating beverages to be brought by patrons and customers into and consumed in a restaurant which is owned, operated, leased, maintained or otherwise controlled by the common victualler.

“Common Victualler” shall mean a person duly licensed under the provisions of M.G.L. Chapter 140 to conduct a restaurant.

“Intoxicating Beverages” shall mean intoxicating beverages as defined in M.G.L. Chapter 138, §1.

“Restaurant” shall mean a restaurant as defined in M.G.L. Chapter 138, §1.

“TIPS” shall mean Training for Intervention ProcedureS.

#### **2. General Rules**

No common victualler shall permit intoxicating beverages to be consumed in a restaurant which is owned, operated, leased, maintained or otherwise controlled by the common victualler except pursuant to a valid license issued under the provisions of M.G.L. Chapter 138, or pursuant to and in strict conformity with this Policy and regulations adopted by the Board pursuant to this Policy.

#### **3. Carry-In Permit for Intoxicating Beverages**

The Board may grant Carry-In Permit to a common victualler to allow intoxicating beverages to be brought by patrons and customers into and consumed in a restaurant which is owned, operated, leased, maintained or otherwise controlled by the common victualler provided that:

a. Application for such Carry-In Permit shall be made to the Board at the time of the initial or renewal application for a common victualler’s license.

b. The applicant for such Carry-In Permit shall not be less than twenty-one years of age and must be a person of good character in the Town.

c. No Carry-In Permit shall be issued to any applicant who has been convicted of a violation of a federal or state narcotic drugs law.

d. No Carry-In Permit shall be issued to any fast food restaurant, which is part of a restaurant chain or franchise.

e. No Carry-In Permit shall be issued to any applicant who has a license for the restaurant issued under the provisions of M.G.L. Chapter 138.

f. No Carry-In Permit shall be issued to any applicant whose license for the restaurant issued under the provisions of M.G.L. Chapter 138 has been suspended or revoked, or to any person, firm, corporation, association or other combination of persons affiliated, directly or indirectly, with such licensee through any agent, employee, stockholder, officer or other person, or any subsidiary whatsoever.

g. Before approving or renewing Carry-In Permit, the Board may cause an examination or examinations to be made of the premises of the applicant or may otherwise review such evidence as the Board deems credible to determine whether such premises comply in all respects with the appropriate definitions of section one and whether activities conducted on the premises comply in all respects with the provisions of this Policy. The Board may deny Carry-In Permit or renewal of Carry-In Permit to any applicant where the premises and/or the activities conducted on the premises do not in the Board’s judgment so comply.

h. The Board may refuse to grant Carry-In Permit in certain geographical areas of the Town, where the character of the neighborhood may warrant such refusal or when not allowed as a permitted use under a Special Permit or Zoning Bylaw.

i. The common victualler shall comply with any and all conditions imposed by the Board with respect to such Carry-In Permit, including without limitation conditions with respect to hours and days during which such intoxicating beverages may be consumed in the restaurant and the insurance which shall be carried with respect to operation of the restaurant having Carry-In Permit.

j. Carry-In Permit under this Policy shall be not be transferable between persons or locations except with the advance permission of the Board and then only if consistent with the public interest. Carry-In Permit shall be revocable as provided herein.

k. Approval of Carry-In Permit under this Policy shall not create any property rights; rather such permission is authorized solely to serve the public need and in such a manner as to protect the common good.

l. Every approval of Carry-In Permit under the provisions of this Policy shall expire on December thirty-first of the year of issue, subject, however, to earlier revocation or cancellation within its term.

#### **4. Obligations of A Common Victualler Granted Carry-In Permit for Intoxicating Beverages.**

Any common victualler approved for Carry-In Permit shall at all times comply with the following requirements: (it is recommended that the Common Victualler attends a Training for Intervention ProcedureS (TIPS)) Program and acknowledge that obtaining TIPS certification is their responsibility.

a. The common victualler shall not permit any person under the age of twenty-one to consume intoxicating beverages in the restaurant. Any person bringing or accompanying any person bringing intoxicating beverages into a restaurant having Carry-In Permit shall, upon request of the common victualler, a Lunenburg police officer, or an agent of the Board, state his name, age, and address, and produce a valid identification document. The common victualler shall verify by appropriate picture identification that any patrons and customers consuming such intoxicating beverages in the restaurant are twenty-one years of age or older. Any common victualler, or agent or employee thereof, under this Policy who reasonably relies on a valid operator's license issued by the registry of motor vehicles pursuant to M.G.L. Chapter 90, §8, a valid liquor purchase identification card issued pursuant to M.G.L. Chapter 138, §34B, a valid passport issued by the United States government or by the government of a foreign country recognized by the United States government, or a valid United States issued military identification card, for proof of a person's identity and age shall not suffer any modification, suspension, revocation or cancellation of its Carry-In Permit or common victuallers license by virtue of that individual's under-age drinking in the restaurant.

b. The common victualler shall only allow intoxicating beverages to be consumed in the dining room or dining rooms of the restaurant, and is responsible for sealing and wrapping the open container before the patron exits the establishment.

c. The common victualler shall ensure that intoxicating beverages are not consumed in the restaurant by customers or patrons so as to cause or contribute to their becoming unruly and/or a danger to themselves or others either in the restaurant or on the public ways upon leaving the restaurant. The common victualler is hereby authorized to confiscate all remaining intoxicating beverages from any patrons or customers who appear to present a danger of becoming unruly and/or becoming a danger to themselves or others either in the restaurant or on the public ways by virtue of the consumption of intoxicating beverages. Any customers or patrons of a restaurant with Carry-In Permit shall be deemed at all times to consent to such confiscation if deemed necessary by the common victualler.

d. The common victualler shall immediately report to the Lunenburg Police Department any situation in which customers or patrons consuming alcohol in the restaurant appear to present a danger to themselves or others either in the restaurant or on the public ways by virtue of the consumption of intoxicating beverages.

#### **5. Regulations**

The Board may promulgate rules and regulations consistent with the provisions of this Policy for clarifying, carrying out, enforcing, implementing and preventing violations of, all and any of its provisions. Without limitation, the Board may make regulations (a) limiting the number of approvals for Carry-In Permit to be issued under this Policy, (b) determining the fee to be charged for Carry-In Permit under this Policy, which fee shall not be more than double the license fee for a common victualler's license, (c) determining the method and frequency of inspection of the premises and method of carrying on the business of any common victualler having Carry-In Permit hereunder, and (d) for the proper and orderly conduct of any business having Carry-In Permit hereunder.

## **6. Penalties for Violation**

Violation by a common victualler of this Policy or any regulation promulgated by the Board pursuant to this Policy shall be punishable by a fine of one hundred dollars for the first offense, any further violations will result in a fine of three hundred dollars (\$300) per offense. Each day a violation continues shall be considered a separate offense.

Any person bringing intoxicating beverages into or consuming intoxicating beverages in a restaurant having Carry-In Permit shall be punished by a fine of three hundred dollars per offense for any of the following violations of this Policy: (a) refusing, upon request of the common victualler, a Lunenburg police officer, or an agent of the Board, to state his name, age, and address, and produce a valid identification document, (b) stating in response to such request a false name, age, or address, including a name or address which is not his name or address in ordinary use, (c) producing or displaying in response to such request a false or fraudulent identification document, (d) refusing to allow the common victualler to confiscate remaining intoxicating beverages under Section 4(c), or (e) acting in a manner dangerous to himself or others in the restaurant. Any sums of money collected as fines shall be paid forthwith into the general revenues of the Town.

## **7. Suspension, etc., of Carry-In Permit**

The Board may suspend, modify, cancel, deny, refuse to renew, or revoke Carry-In Permit for any violation of this Policy or any regulation promulgated by the Board pursuant to this Policy. The Board may suspend, modify, cancel, deny, refuse to renew, or revoke a common victualler's license in the event a common victualler has committed multiple, willful, or repeated violations of this Policy or any regulation promulgated by the Board pursuant to this Policy. In case of suspension, modification, cancellation, denial, refusal to renew, or revocation of any Carry-In Permit or any license as aforesaid, no abatement or refund of any part of the fee paid therefor shall be made.

## **8. Severability**

In case any section, paragraph or part of this chapter be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

## **9. Effective Date**

This Policy shall take effect March 10, 2009.

## **SUMMARY**

Currently, the Board of Selectmen has statutory authority to issue liquor licenses and common victualler licenses. It has been determined that state law does not prevent or adequately regulate "BYOB" activity. The proposed Policy would allow the Board of Selectmen to regulate "BYOB" restaurants in the Town, would set minimum standards for common victuallers engaged in this activity, would empower the Board to prohibit this activity in certain neighborhoods, and would establish penalties for violations.