

BOARD OF SELECTMEN MEETING MINUTES

September 16, 2014

The Board of Selectmen met in the Joseph F. Bilotta Meeting Room, Town Hall, as scheduled with Thomas Alonzo, Chair; Paula Bertram, Vice Chair; Jamie Toale, Clerk, Robert Ebersole, Phyllis Luck and Town Manager Kerry Speidel present. The meeting opened at 7:00 PM with the Pledge of Allegiance.

PUBLIC COMMENT

Board: Ms. Luck thanked Conservation Commissioner Rob Verge for leading walks on the town's conservation areas. She encouraged residents to take advantage of these walks to get to know the beautiful conservation lands. Ms. Luck reported the Police Department is conducting a National Prescription Drug Take Back Day on Saturday, September 27th from 10 am to 2 pm at the Public Safety Building.

Ms. Luck stated she had attended a Stop the Pipeline meeting in Bolton recently.

Ms. Bertram wanted to thank a resident for doing research on the proposed pipeline. Interested parties can go to www.FERC.gov for more information. Anyone can register online and provide public comment on the website as well. It was suggested to discuss composing a resolution regarding the pipeline at a future meeting.

Mr. Alonzo reported Representative Benson's office has announced a homeowners' open forum meeting regarding the pipeline and its impact as well as strategies, at the Pepperell Senior Center on Wednesday, September 24th at 7:00 p.m.

The School Building Committee has announced a groundbreaking ceremony for the new school on Saturday, October 18th at 1:15 p.m. This is open to the public.

Public: Carl Luck, noting the dam keepers were scheduled to be appointed this evening, wanted to thank the current dam keepers for the past year's work and recommend them for reappointment. He expressed concern about the responsibilities of the dam keeper such as recordkeeping etc. He asked the town to ensure the Order of Conditions for water level drawdown is adhered to. He suggested the town create a task force to establish policy and procedures on recordkeeping and public access, and offered his assistance if needed. Ms. Bertram, as a follow up to Mr. Luck's comment, asked if logs are kept on the water level and that the Selectboard receive copies of the logs or have access to that information.

Mr. Alonzo announced the Housing Authority appointment for 7:00 p.m. is being rescheduled due to lack of quorum.

7:15 PM Five Year Plan Update on Hazard Mitigation Plan-Sam Lawton, Principal Planner, MRPC

Mr. Lawton presented a brief history of the Hazard Mitigation Plan, noting the MRPC received funding from MEMA and FEMA in 2011, and that the update process began in January of 2012. Lunenburg's plan will be expiring in October 2014.

The goals of the plan are:

1. to reduce potential impact of hazards on local infrastructure and local economy, critical facilities, local environment, historical and cultural treasures and private property.,
2. to improve protection of the general population from hazards, emergency preparedness, and local disaster response and recovery capability.

Examples of some hazardous-related events are the December 2008 ice storm, 2010 spring flooding and the October 2011 northeaster snowstorm. The update process involved reestablishing a local multi-hazard community planning team composed of the Fire Department, Police Department, Public Works and the Town Manager. A series of meetings were held to review each step in the plan's development to identify past and potential hazards and critical facilities, assess vulnerability and current development patterns, identify and prioritize hazard mitigation strategies, and develop an action plan for implementing mitigation strategies. The final process will be to adopt and monitor the updated plan.

Mr. Lawton asked the Selectboard to provide comments and feedback of the draft back to him within two weeks. Ms. Speidel will send an electronic copy of the hazard mitigation plan to them and other pertinent departments and boards for review. The final draft will be submitted to FEMA/MEMA for review and if it is approved, FEMA/MEMA will send a "Conditional Letter of Approval" to MRPC and the Town. The Town would then provide a "Certificate of Adoption" for official adoption. Once the certificate is returned to MRPC, it will be incorporated into the Final Hazard Mitigation Plan Update, which will be in place for the next five years. A request was made to check if the town would still be in compliance during the update process since the plan expires October 2014 and the review process by FEMA/MEMA will take about six months. The Board thanked Mr. Lawton for his presentation.

CURRENT BUSINESS

1. Request to Increase Ambulance Fees

Fire Chief Sullivan reported the ambulance fees have not been increased in at least four years. He presented a chart of revenues and expenditures from fiscal years 2010, 2011, 2012 and 2013, adding if fees are increased the town could see an increase of revenue up to \$60,000. Chief Sullivan stated costs of supplies and equipment have increased. He would also like to add some additional staff coverage at the station. Ms. Bertram thanked Chief Sullivan for his report. She stated her comments were not a reflection on the department staff but was concerned about seeking an increase in ambulance fees as a revenue generating service. She would like to focus on other optional fees such as permits to generate revenue. Ms. Bertram stated we need to do our best to keep the impact of the cost of non-insurance covered charges on families minimal. The Chief stated Medicare patients costs are fixed and the town has to accept their payment. Mr. Ebersole agreed with Ms. Bertram's concern about keeping the fees at a reasonable level. He requested to see the number of ambulance runs from fiscal year 2014.

Motion: R. Ebersole

2nd: P. Luck

To approve the proposed rate increase effective October 1, 2014, and request a report of the fiscal year 2014 runs as part of the budget planning process for the upcoming fiscal year

Vote: All in Favor

The Board thanked Chief Sullivan for coming in this evening.

2. Town Manager Report

Update on review of Main, Highland and Oak intersections: Ms. Speidel reported Police Chief Marino has come tonight with a proposal for this intersection. Chief Marino stated this proposal partially resulted due to an increase in pedestrian traffic because the middle school students can no longer walk through the school grounds to get to the teen center due to the high school construction. Students now have to walk down Oak Avenue and up Main Street and cross a crosswalk to get to the teen center. Several citizens have also expressed concern to him about pedestrian safety. He also observed the traffic volume at the intersection.

He proposed placing a stop sign on Main Street in the northeastern direction and a stop sign on Highland Street in a southern direction. This will stop all traffic at that intersection. Chief Marino also proposed placing a yield sign on Oak Avenue on the off ramp onto Highland St. (north) and a stop sign coming into Main Street off Oak Avenue. Discussion ensued about redesigning some intersections and adding sidewalks for increased safety in the future. An advertisement announcing the traffic sign change will be placed in the local newspaper at least twice before installing the stop signs.

Motion: P. Bertram

2nd: J. Toale

To approve the stop sign/yield sign proposal for Main Street, Oak Avenue and Highland Street as presented by the Police Chief and DPW Director

Vote: All in Favor

The Board moved onto the Flat Hill Road and Sunset Lane intersection. Chief Marino wants to place a stop sign on Flat Hill Road at the intersection of Sunset Lane due to complaints from residents and a history of accidents in the location. Speed is not a factor, but there is a blind spot for vehicles going west on Flat Hill Road. DPW Director Rodriguenz pointed out the road grade also affects the line of sight for vehicles. Discussion ensued on other ways to improve the intersection safety.

Motion: P. Bertram

2nd: J. Toale

To approve installation of a stop sign at the intersection of Flat Hill Road and Sunset Lane as presented by the Police Chief and DPW Director

Vote: All in Favor

The Board thanked the Chief and DPW Director.

Update on Building Permit Issue for 78 Oak Avenue:

Ms. Speidel reported this was first presented at the August 26th meeting. One of the homeowners came in at that time and informed the Board that they had pulled a building permit for a siding project on their home and had some substantial concerns with the contractor and getting the work completed. They had asked if the town issued citations under the building code and if not, why not? Ms. Speidel has spoken with the homeowners, the Building Inspector, legal counsel and the incoming Land Use Coordinator regarding the details. In this case, the contractor applied for the building permit but the work has not been completed. The Building Inspector visited the site and wrote a letter to the contractor identifying some deficiencies. Currently there is no work being done and the project is not completed. Ms. Speidel stated it is the responsibility of the homeowner to get the contractor or another contractor to complete the work and call for a final inspection. The town does not issue citations for violations of the building code, however it does issue stop work orders very infrequently. Mr. Alonzo asked Building Inspector Mike Sauvageau who can request a final inspection at the job site? Mr. Sauvageau stated this is not the first case when the contractor took the payment and then never completed the work. He explained the Building Code lists specific types of mandatory inspections; in this instance the Building Inspector may determine other inspections are needed. It is the responsibility of the homeowner or their agent to notify the Building Inspector that the work is ready for inspection. Mr. Sauvageau stated in this case the contractor pulled the permit and should request the inspection. Mr. Alonzo asked if the contractor is not around anymore, can the homeowner request an inspection? Mr. Sauvageau stated anyone can call him under any circumstance and he will respond.

Ms. Speidel requested Mr. Sauvageau elaborate further on citations. Mr. Sauvageau stated under Building Code § R113, the Building Inspector is authorized to serve a stop order to anyone who violates the building code. They would then be notified of what they need to correct. Building Code § R113. 3 addresses prosecution of a violation; every noticeable order shall be in writing and served on the person responsible via one of four methods. Mr. Sauvageau sent the letter by certified mail, return request on May 6th and cited the two sections of the building code that he was in violation of. The contractor contacted Mr. Sauvageau and stated he received the violation letter, but was in dispute with the homeowners regarding the job. The contractor also told Mr. Sauvageau that he was told not to return to the job site.

Mr. Sauvageau stated he has done everything allowed under the building code. There is no mechanism in the building code that issues citations/fines to people. This issue has now gone to the BBRS (State Board of Building Regulations and Standards) due to a complaint from the homeowner on the contractor. Mr. Sauvageau reported he also sent a letter to the BBRS detailing the violations and in support of the homeowner. No action has been taken yet by the BBRS. A decision could take up to ninety (90) days due to case back up. Mr. Ebersole asked whether the town should be fining contractors in violation, adding more research is needed. Mr. Sauvageau stated M.G.L. Chapter 143, § 6- 10, and Chapter 148(a) speaks for itself and only addresses certain safety issues in building code. He believes he has done everything allowed under the state building code and his duties as a Building Inspector to address the code violations.

Mr. Alonzo stated he was satisfied the town has done everything they could for this case.

Heather Scott, homeowner of 78 Oak Avenue, thanked everyone for taking the time to address this.

She asked if the town is allowing the same contractor to take out other building projects in Lunenburg. Mr. Sauvageau stated even if someone's license is revoked or suspended, they are allowed to complete any outstanding jobs. They cannot pull new permits. Ms. Scott requested the town look into this further for other's best interests.

Ms. Scott stated she has researched other communities and there is documentation where inspections are required when there is installation of a water barrier. In her case in Lunenburg, there is no inspection required at this phase. She requested the town conduct further research into this. In multiple towns, if a building permit is pulled and substantial work has not been completed within six months, the Building Inspector does an inspection.

She also stated that the homeowner is the party responsible for pulling the permits, having the contractor come back and finish the work, and asked the town to reexamine this as most people are not knowledgeable on code.

Mr. Alonzo stated the contract is between the homeowner and the contractor. Homeowners cannot be expected to know the quality of work or building code. This is why the town employs building inspectors and other personnel to ensure the job is performed correctly and that public safety is ensured.

Ms. Scott asked if the contractor pulls the permit, how homeowners can still be held liable that the building code is enforced if we do not have the power to call for specific inspections? Ms. Bertram stated the homeowner should have a copy of the building permit and it should list what inspections are required. Ms. Scott stated we have been told we cannot call for an inspection, we are relying on the contractor to call for an inspection. If the contractor

does not return to the job and work is stalled and violations cited, what are my other options? She requested in this case, the town should be looking at checks and balances so this does not occur again for someone else. Mr. Ebersole requested Ms. Scott provide copies of the other towns' citations. Mr. Sauvageau reiterated it is the duty of the permit holder or their agent to request the building official for an inspection. He stated he cannot call every open permit holder. He added the homeowner has waived her right by signing the permit and assigning the contractor as the holder of the permit. He stated if someone calls him he will go to the job site. Ms. Scott formally requested a final inspection of the job. Mr. Sauvageau stated he could perform a final inspection but right now the job is incomplete and in dispute. He said he would just reiterate everything he has already documented. If the inspection fails, the permit remains open. Ms. Scott pointed out she had made a request in 2013 for an inspection and the same issues that are outstanding now were present then. If the process had been addressed in 2013, perhaps she wouldn't be here tonight. She thanked the Board.

3. **Request for Transfer under Chapter 44, §33B**

Ms. Speidel directed the Selectboard to her memo dated September 15, 2014. She reported total expenditures were lower than anticipated with \$176,429.96 or .5398% remaining. Total revenue collected was \$32,887,387.51 or \$207,472.66 above budgeted, or 1.13% more than estimated. She stated in the process of closing out fiscal year 2014, it was determined there was a surplus of \$383,902.62.

Revenues

Fines & Forfeits

Ms. Speidel stated the original estimate was \$28,000 and actual collections were \$48,537.50 or 73.35% higher. This was due mainly to an increase in court fines (motor vehicle violations).

Local Options Meal Tax

The original estimate was \$66,625. Actual collections were \$84,863.19 or 27.37% higher. This was adopted in 2010. The state reimburses the town and provides no backup or data. The question was posed how we know we are getting the correct amount? More research is needed.

Tax Liens Redeemed

Nothing was anticipated but \$151,544.72 was received. The tax title for 163/171 Lancaster Avenue was paid off.

Real Estate Taxes

Collections as of June 30, 2014 were 98.61% which is very strong.

Departmental Receipts/Fees

Collections were only 88.32% of the estimated amount. This will need to be researched.

Motor Vehicle Excise Taxes

Collections were \$134,565.04 higher than estimated but collections included the final commitment of fiscal year 2013 which was issued late with a due date in FY14.

Penalties and Interest

Actual collections were \$24,203.10 higher than estimated. This includes the payoff of 163/171 Lancaster Avenue which accounts for a significant portion of the receipts.

Expenditures

Ms. Speidel reported there were some budget adjustments at 2014 Annual Town Meeting to account for some over-expenditures such as Legal, Veterans Benefits, Monty Tech Assessment and Snow Removal.

Ms. Speidel also presented a copy of the Free Cash Estimate prepared by the Town Accountant. It is anticipated Free Cash will be certified at \$483,320 as of June 30, 2014.

The transfer request is to move \$10,033.44 from Health Insurance to Legal Expenses. This was presented to the Finance Committee at their meeting last Thursday and was approved.

Motion: P. Bertram

2nd: J. Toale

To authorize the transfer of \$10,033.44 from Health Insurance to Legal Expenses **Vote: All in Favor**

APPOINTMENTS

Ms. Speidel reported appointments for this evening are as follows: Ronald Wilson as Dam Keeper, Richard Petrie as Assistant Dam Keeper, and Kopelman & Paige, P.C. as Legal Counsel. The clock winders list was not current so was passed over for this evening.

Motion: P. Bertram

2nd: J. Toale

To appoint the Dam Keeper, Assistant Dam Keeper and Town Counsel as presented **Vote: All in Favor**

WARRANT: A warrant in the amount of \$240,031.05 was presented.

COMMITTEE REPORTS:

Board of Health- Mr. Ebersole reported the board met on Monday; standard operations.

Building Reuse Committee- Mr. Toale reported the committee met on Monday this week. They are still awaiting on the village zoning work. They did receive an update from the School Committee on the conditions necessary to release the Passios property. There was some discussion and some correspondence related to the property line that was requested and relocating thirty parking spaces. This issue needs to be resolved and needs approval by the MSBA for the new location. The committee discussed the estimates for renovations to the Town Hall and what alternative access to the property might be required from Memorial Drive. The committee is back to meeting twice monthly.

Capital Planning Committee is on hiatus. There is an organizational meeting later this month.

Finance Committee met and reviewed the year end budget and approved the transfer request.

Library Board of Trustees is meeting this week.

Planning Board – Ms. Bertram reported the board met last night in a workshop to go over the village bylaw. Mr. Ebersole requested a draft, if available. and any proposed boundaries of the plan.

School Committee- Ms. Luck reported they meet tomorrow night and topics covered will be fiscal year 2016 capital plan initial discussion and the update on discussion of release of the Passios Building.

School Building Committee – met last week, major items discussed was the groundbreaking ceremony and drawing the plot lines for the Passios Building.

Sewer Commission- is meeting tonight, they have recently sent out fines for grease trap reporting and illegal sump pump connections.

Mr. Alonzo stated he would not be able to attend the meeting next week. There are two items currently scheduled; the Housing Authority appointment that was postponed this evening due to lack of quorum and a solar farm proposal presentation. The Board decided to postpone these items until their October 7 meeting.

Ms. Bertram requested holding a workshop or adding to the October 7 agenda for Town Manager goals and Selectboard goals. It was decided to hold a workshop for the Selectboard goals.

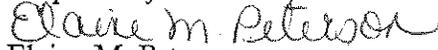
Motion: P. Bertram

To adjourn the meeting at 10:03 p.m.

2nd: J. Toale

Vote: All in Favor

Respectfully submitted,


Elaine M. Peterson
Executive Asst. to Town Manager