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**BOARD OF SELECTMEN
MEETING MINUTES**

July 21, 2015

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LUNENBURG TOWN
CLERK OFFICE

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

Public Comment:

Mr. Alonzo announced the Library-sponsored "Great Cardboard Boat Race" at the Town Beach on Lake Whalom on August 8th at 5:00 p.m. Rain date is Monday, August 10th. He also commended the Turkey Hill Gardeners for the beautiful plantings in the Town Center and to Lakeview Nurseries who provide assistance as well. Ms. Luck announced there is a new shipment of compost bins available; they are \$43.00 and can be purchased at the Public Works.

Sam Ramondelli of Reservoir Road stated he saw the Highway Department coming down the road clearing both sides of the road. He rushed out with a cold drink for the driver as it was a hot day. He wanted to thank them for the work they do. He called the DPW and spoke with Mr. Rodriquenz as well. They all do a tremendous job.

Karim and Rachel Gabriel of 60 Burrage Street presented about their beagle, Edge, who ran away on March 19th. Mr. Gabriel stated the Police Department has been very helpful as well as other small businesses; they have called about two other beagles that they have found wandering. Edge has not been seen since March 19th although they have followed up on leads. On Saturday the Gabriels spoke to a woman who had found a beagle and had called the Animal Control Officer. The woman who called had been advised by the ACO to let the dog go, that it would probably go home on its own. Social media has been helpful in the search and there a lot of comments posted regarding the lost dog, mostly positive. The Gabriels asked that an investigation be conducted on the allegations made on social media regarding the ACO and to make the report public. They also asked the Board to increase Lunenburg's social media footprint related to the ACO. Finally, they asked the Board to reconsider a "Leash Law." Edge is micro-chipped and if he had been picked up he might have been found. Mr. Ebersole stated that the Lunenburg bylaw is not a leash law but rather a restraint law. It is illegal for dogs to run on other people's property and is technically a public nuisance. Mr. Toale thanked Mr. Gabriel and stated as a dog owner he did empathize with them.

Debra Leger of Sandy Cove Road stated she was the woman who found the beagle and it was on last Thursday. She contacted the ACO to find out what to do. She added this has turned into a witch hunt for the ACO; Ms. Comeau is a good person, has been in office since 1977 and works on a small budget on a supposedly part-time basis. Ms. Leger stated Ms. Comeau actually works 24/7 and only gets \$3 per day to care for dogs. She has never gotten a raise. Someone who only gets \$3 per day to care for a dog is not in it for the money. She comes out when needed. Ms. Leger stated the dog was not run down and appeared in good health. She empathizes with Mr. and Mrs. Gabriel, but the beagle found actually lives on Sandy Cove Road. Ms. Comeau does not have unlimited resources to care for every dog running loose and this needs to be considered.

Kim Martin, 522 Burrage Street, has contacted the ACO three times. Ms. Martin stated a dog showed up at her house and ACO told her there is no leash law in town, and to let the dog go. Her husband found another dog weaving in and out of traffic another time. The ACO told her again to let the dog go. The Martins canvassed the neighborhood where they found the dog for three days in a row and tried to find the owner. They finally did. They had called the ACO and she told them there were no lost dogs reported. Another time Ms. Martin

contacted the ACO regarding a sick looking raccoon walking around. She told her she didn't handle raccoons. Ms. Martin asked her what she should do; ACO told her to call Police, but they wouldn't do anything about it either. She was extremely rude and all she could tell me was I was out of luck. Isn't there some sort of resource for dealing with a wild animal? She echoed the social media request as well.

Troy Daniels, 98 Main Street, stated he found a poodle and was told by the ACO to let the dog loose. He took the dog in and kept it safe until he could locate the owners. This is an old problem. He stated a solution is needed. Mr. Toale thanked everyone for their input. He added the Board would take all accounts given this evening into consideration. The ACO is an employee of the town and under the Town Manager's purview. Mr. Alonzo requested a full description of the responsibilities of the Animal Control Officer for a future meeting. Ms. Leger returned to the podium stating wild animals do not fall under the umbrella of wildlife management. Wildlife management does not answer wild animal calls half of the time. Mr. Toale stated they would review the ACO job duties. Ms. Leger advocated for a leash law where people would have to come pick up their pet and then pay a fine to get them back. That would generate more money for the town. Mr. Daniels returned to the podium and stated that is not the case and that for the record Ms. Comeau is also the Animal Inspector and has been derelict in those duties as well. Mr. Alonzo stated in the ten and a half years that he has been on the Board and believes if someone feels they are a part-time employee, and they feel they are not being given the tools or mechanisms to do their job correctly, they should take it upon themselves to come and request them. Ms. Comeau has never come in and asked for more funding or facilities.

George Martin, 522 Burrage Street, stated he was bad; he had two unlicensed dogs he kept inside and had just paid \$300 in delinquent dog license fees. He wondered if other people are also paying those late fees, shouldn't the money go directly to her? He asked if there are logs being maintained to see the ACO work load.

Ms. Lafleur stated the issue of the ACO vehicle has also been raised several times. The town does not own it; there is no town seal on it. The ACO purchased the vehicle for her personal use and she also uses it while performing her ACO duties for the town.

Chief Marino stated he believed Ms. Comeau paid \$300 for the vehicle years and he put a light bar on the roof for safety reasons. He reported that he has had an officer investigating this case for three days. He stated he has a great appreciation for the passion people have for animals, but the Facebook comments got carried away. The beagle belongs to someone on South Cove Road and the owner said the dog continually escapes by digging under the fence. Last time the beagle escaped the collar slipped off while going under the fence. This was not the dog that disappeared from Burrage Street.

Ms. Lafleur stated typically the town would not release logs from an investigation but we would report on statistics that would appear in the annual town report. One did not appear in the past year but Ms. Lafleur did make a note that an annual report would appear going forward.

Mr. Daniels asked if it was perfectly okay for the ACO to tell someone to set a dog free. We have the highest rate of rabies in the state so these animals pose a threat to the community – is that we are saying – it's okay to let the dog loose?

Ms. Bertram stated being a two dog owner she empathizes with people looking for their dog, as she has lost a dog before. She appreciates all the comments on both sides. An issue has been brought to the Board that needs further investigation and she hoped it will appear on a future agenda and that they could hear from the ACO about any issues she has in operating her department and concerns of residents. Mr. Toale stated it would. Greg Bittner, 129 Pleasant Street, stated he knows the Board is the appointing authority and asked if the residents have some avenue other than this Board to lodge a formal complaint. Mr. Toale stated if there is a complaint it should be made to the Town Manager. Ms. Lafleur stated she will accept the comments here as a formal complaint.

Pole Petition Hearing for Oak Avenue

Mr. Toale opened the public hearing. The petition was from Verizon New England to place one solely owned pole numbered T.10 1/2 on the southeasterly side of Oak Avenue at a point approximately three hundred and eighty-eight feet northeasterly from the center line of Turkey Hill Road.

Kelly Corriea of Verizon reported they would be placing a new service pole for phone lines to the new school. Mr. Ebersole asked why the lines did not go underground as with the other utilities. Ms. Corriea stated it was to avoid digging up the road pavement and she assumed it was because the other utility pole in that area has reached its equipment-holding capacity. The pole is to get the service line across the street at which point it will go underground to the phone room in the new school.

Mr. Toale asked if there was any further comment from those present. Having heard no further comments, Mr. Toale closed the hearing.

Motion: P. Bertram

2nd:B. Ebersole

To approve the pole petition as requested

Vote: All in Favor

Class II Auto Dealer License Application for Adnan Inayat at 10 Massachusetts Avenue

Mr. Toale read the hearing notice aloud: the Licensing Authority will hold a public hearing on July 21, 2015 at 7:30 p.m. at Town Hall, 17 Main Street, 2nd Floor, Lunenburg, on the application submitted by Adnan Inayat d/b/a Premium Motors for a Class II Auto Dealer License. The license is to be exercised at premises located at 10 Massachusetts Avenue. Mr. Inayat stated he has moved here from Atlanta, Georgia where he sold used cars for ten years. He would like to do that in Lunenburg. He has obtained a special permit from the ZBA. He has also appeared before the Planning Board whose hearing has been continued to July 27th due to abutters' concerns regarding parking and location of vehicles. Mr. Inayat obtained a letter with the landlord and three tenants signing off after he met with them. He also has a parking plan which indicates where the cars will be located and the designated parking for tenants and customers as well. Discussion ensued regarding whether to continue the hearing or make the license contingent on the Planning Board development plan approval.

Motion: B. Ebersole

2nd: P. Bertram

To continue the hearing to August 4th at 7:30 p.m.

Vote: All in Favor

Mr. Inayat thanked the Board for their time.

Current Business:

Notice of First Refusal for 150 & 164 White Street

Alan Foster, 164 White Street, presented concerning the above property. He stated he had purchased 75 acres initially and 65 are in Chapter 61A. His home is on a parcel of land outside of the chapter land and he would like to discontinue 11.13 of the chapter acres to be merged with his home. He would like to sell a total parcel including his home consisting of 14.25 acres, of combined chapter and non-chapter land. Ms. Bertram requested clarity due to the letter from Mr. Foster's attorney regarding an exemption from the statute regarding use of the chapter land for a residence of the owner not being a conversion. She stated the residence already existed and is questioning it because the Conservation Commission has expressed interest in the property. Mr. Foster reported it was the State Forester who pointed out that this was the correct process to handle the request for separating the 11.13 acres. He added he is prepared to pay the rollback tax if the Board will waive the Right of First Refusal (ROFR). Mr. Foster stated he was informed the Conservation Commission had notified the Board of Selectmen office that they were not interested as of this morning. He added the property he is selling has a dam located on it that contains a 9 acre pond that must be maintained, especially during rain events. Clearly the person who purchases and lives in the home is the person who should maintain the dam. He would like to be able to move forward merging these two properties so it can be best maintained by someone who is on site. Ms. Lafleur reported the Town received the ROFR request in June and sent it to legal counsel to ensure it met all the legal requirements; there were some deficiencies and asked for a new letter from Mr. Foster. We requested feedback from Planning Board, Open Space and Conservation Commission by July 17th. We have heard back in writing from Planning Board and Open Space that they are not interested in the town exercising its right. What Ms. Lafleur was told was that Conservation Commission had made no recommendation. Ms. Bertram stated she was informed by Chair Bursch to convey its interest at this meeting. Ms. Lafleur stated the

office requested at least twice that Conservation Commission put its recommendation or lack of recommendation in writing. Ms. Bertram stated otherwise and that Conservation did not have enough information to make a decision. Ms. Bertram also questioned whether the exemption would still apply if Mr. Foster intends to sell the property. Ms. Lafleur stated the second letter of intent was only received yesterday so she does not have an opinion from town counsel and can't answer Ms. Bertram's question regarding the exemption. She added she was very clear in writing with all three boards asking for an opinion by July 17th and asking them to let her know if they needed more time. It would have been helpful if we received a response because we are not looking to rush people through the process.

Further discussion ensued regarding legality of the second letter of notice and the owner's attorney's interpretation of the exemption of the statute. Ms. Bertram noted the Conservation Commission did not have the sale price and the new letter before the 17th. They meet again on Wednesday, August 5th. Mr. Toale pointed out if the letter does meet the requirements of the ROFR, then the clock has started on the 120 day period of the first refusal option. Mr. Ebersole noted since the Board appoints the Conservation Commission, the Board as the appointing authority need to communicate strongly that they didn't follow through on the Town Manager's request. This is our duty as supervisors.

Motion: B. Ebersole

2nd:P. Bertram

To request Conservation Commission provide information and have Town Counsel review the second letter and clarify the exemption statute

Vote: All in Favor

The Board will revisit again at their meeting on August 11th.

1) Interim Loan Instructions & Financial Agreement Instructions [ED-01.FID866556]

Ms. Lafleur referred the Board to the Interim Loan Note related to the Sewer Commission's extension project for the Pratt Street area; an interim loan agreement with the Massachusetts Clean Water Trust in the amount of \$1,521,653. The interest rate is .9 of 1%. When this is permanently financed we expect the final interest rate will be 2%. This involves a lengthy vote that shall be read by the Clerk of the Board. Mr. Alonzo read the Vote of the Board of Selectmen aloud into the record.

Motion: T. Alonzo

I, the Clerk of the Board of Selectmen of the Town of Lunenburg, MA, certify that at a meeting held July 21, 2015, of which meeting all members of the board were duly notified and at which a quorum was present, the following vote was passed, all of which appears upon the official record of the board in my custody:

VOTED:

- 1) That the Town shall issue a bond or bonds in an aggregate principal amount not to exceed \$1,521,653 (the "Bonds") pursuant to C.29C and 44 of General Laws and votes of the Town passed May 3, 2014 (Article 25), which authorized a total borrowing of \$2,200,000, for the construction of sewers and other water pollution control facilities identified in such votes (the "Project");**
- 2) that in anticipation of the issuance of the Bonds the Treasurer is authorized to issue an interim loan note or notes (the "Notes") from time to time in an aggregate principal amount not to exceed \$1,521,653;**
- 3) that each Bond or Note shall be issued as a single registered security, and sold to the Massachusetts Clean Water Trust (the "Trust") at a price determined pursuant to the Financing Agreement;**
- 4) that the Treasurer is authorized to determine the date, the form, the maximum interest rate and the principal maturities of each Bond and Note, and to execute a Financing Agreement (or Agreements) with the Trust with respect to the sale of the Bonds and Notes, such date, form and maturities and the specific interest rate or rates of the Bonds and Notes to be approved by a majority of the Board of Selectmen and the Treasurer and evidenced by their execution of the Bonds or Notes;**
- 5) that all action taken to date by the Town and its officers and agents to carry out the Project and its financing, including the execution of any loan commitment or agreement by the Treasurer, are hereby ratified, approved and confirmed and;**
- 6) that the Treasurer and the other appropriate Town officials are each hereby authorized to take any and all actions necessary or convenient to carry out the provisions of this vote, including**

execution and delivery of the Financing Agreement(s) and the Project Regulatory Agreement(s) relating to the Project.

I further certify that the vote was adopted at a meeting open to the public, that no vote was taken by secret ballot, that notice stating the place, date, time and agenda of the meeting (which agenda included the adoption of the above vote) was filed with the Town Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the Town Clerk is located or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2) (b), at least 48 hours, not including Saturdays, Sundays or legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decisions in connection with the sale of the Bonds or Notes were taken in executive session, and that the official record of the meeting was made available to the public promptly and remains available to the public, all in accordance with G. L. c.30A, §§18-25, as amended. I further certify that the vote has not been amended, supplemented or revoked and remains in effect on this date. Dated July 21, 2015

2nd: B. Ebersole

Vote: All in Favor

The Board signed the certificate and Clerk Alonzo signed the vote.

2) Unitil Rate Case and Grid Modernization

Ms. Lafleur recapped that the Board had provided some questions to her to ask Unitil regarding grid modernization, time of use rates, and associated costs at last week's meeting. She also had legal counsel working on the Town filing as an intervener in the rate case. Ms. Lafleur reported today, July 21, the Town as well as Town Counsel received the formal notice of the filing of the rate case dated June 29, 2015 with a deadline of July 13, 2015 to file a Petition to Intervene. Unitil sent the notice after the filing deadline. Town Counsel will raise this issue with the Department of Public Utilities. Town Counsel believes our petition will be granted even though it is filed late.

Ms. Lafleur stated there were questions from the Board regarding the grid modernization case. One question was whether any of the proposed enhancements would be done on a cost neutral basis; this is up to DPU to determine as part of the process. It appears Unitil would be looking to recoup whatever costs associated with the modernization probably through a separate process. Another question asked if there would be an incentive for using electricity at "off peak" hours. This is something DPU has asked Unitil to look at as part of this program. No formal decisions have been made so far.

Mr. Toale asked if the two issues would be part of the hearing and would the Board acting as interveners have an opportunity to be heard on them. Ms. Lafleur stated these are two separate cases, so she wouldn't expect the above two questions to be addressed during the rate case. Unitil did ask for comments on the grid modernization by the end of this month so we can incorporate these items in that. Mr. Alonzo pointed out the rate case hearing is scheduled for August 12 in Fitchburg, which is the same night the Kinder Morgan gas pipeline meeting is scheduled. Ms. Lafleur offered to draft comments for the grid modernization reflective of the discussion and points made tonight.

Motion: P. Bertram

2nd: R. Ebersole

To authorize Chairman Toale to sign a letter on behalf of the Board

Vote: All in Favor

3) Fiscal Year 2016 Goals

Mr. Toale reported the Board had held a workshop and arrived at three goals with the assigned Board members heading the topic for the upcoming year;

- 1) Storm Water Management Plan (Ms. Luck and Ms. Bertram) Ms. Bertram reported this is a multifaceted issue. Three primary areas that need to be addressed are 1) storm water regulations, 2) existing infrastructure, maintenance and management requirements, associated cost and capital needs, and 3) regulations for MS4 – Existing and proposed NPDES Storm water permit compliance requirements and plan to meet those requirements. She also suggested a storm water utility be developed, a system to bill property owners, a strong public education program, and creation of a bylaw to establish the utility. Mr. Ebersole suggested the Water District become a member of the

proposed subcommittee that was suggested to work on various aspects of storm water management. Another suggestion made was on septic system maintenance program as a way to avoid extra nitrogen from being discharged.

Mr. Toale asked are these the three big goals that we as the Board want to tackle and be measured on either this fiscal year or long-term. Also, do we need other committees to participate and how much time do we want to spend on this in terms of staff work time or as workshops?

2) Pavement Management Plan/Traffic Rules & Orders (Mr. Ebersole)

Mr. Ebersole reported we are still waiting for Town Counsel to provide final opinion on traffic rules and orders. He has spoken with Police Chief Marino as well on these. He stated a need to explore revenue sources and make projections for the future considering Chapter 90, town funds and borrowing, consider betterments for certain roads in town, document qualified federal roads, and improve the pavement management software and index. We need to ensure that residents can see what roads are going to be worked on, look at drainage, whether it's storm water or not, do an analysis on historical spending versus road miles, and adopt official maintenance and utility road opening policies.

3) Economic Development (Mr. Toale and Mr. Alonzo)

Mr. Toale reported this is one component of the Town's overall long-term strategy. Economic development is in competition with Land Use, Transportation, Natural Resources, Open Space, Recreation, Housing, Community Services and Facilities. All Lunenburg residents, business owners, and employees hold a stake in the Town's economic success. The following groups play a major role in setting the economic development agenda and driving activities and deliverables to achieve goals: Planning Board, Selectmen, Finance Committee, Conservation Commission, Historical Commission, Building Reuse, Capital Planning as well as Sewer Commission, Land Use, DPW, and Police and Fire Departments.

The hardest thing is to determine what it is the town wants to be and to fit this component in with the other competing components. Information needs to be gathered via Town Meeting, surveys, town website, public access channel, hearings and committee work. The Board would fine tune the plan. Mr. Toale presented possible measurement metrics to track success or progress. They were percentage of taxes paid, amount of undeveloped land zoned for business, employment rates, wealth per capita and median incomes, housing cost burden, where residents work, travel times to work, the number of jobs and employers in town and full-time versus part-time jobs.

It is recommended that the Board of Selectman set an achievable goal for FY16 that would define activities during the fiscal year leading to the creation of an Economic Development Plan.

Mr. Toale reported some other items discussed were short term goals and Town Manager's goals. Town Manager goals are vehicle inventory, department metrics, personnel evaluations, project status worksheet/ outstanding items and requests, and creating job descriptions for all elected officials and appointed board and committee members. Mr. Toale suggested setting another workshop date in order to go to the next step in more detail. The date of August 25th at 6:00 PM for a workshop was suggested. The goal for this workshop will be to define short term deliverables.

4) Minutes of April 14 and July 7, 2015 were approved. An Accounts Payable warrant in the amount of \$1,729,817.65 was presented for signatures.

Action File Issue

Mr. Alonzo reported the state is looking to expand the public records law; imposing new administrative burdens, timelines and significant unfunded mandates on cities and towns. The bill would significantly reduce the amount that communities can charge for complying with a public records request and expanding municipal responsibilities. Communities would only have 15 days to comply on every public records request. Mr. Alonzo suggested small towns should lobby against this. He added the Legislature continues to exempt itself from all

aspects of the public records law. This expansion would have a very negative impact on the Town. Ms. Bertram agreed and suggested the Board send a letter to our legislators voicing our concerns on this proposed legislation. Mr. Toale concurred.

6) Mass DOT Title VI/Non-discrimination Assurance Requirement

Ms. Lafleur reported MassDOT is requesting review and signature on the Federal Highway Administration Title VI non-discrimination assurance. This asserts the community's commitment to not discriminate in any program, service or activity supported by federal financial assistance. The assurance should be signed by the Chair.

Motion: T. Alonzo

2nd: P. Bertram

To authorize the Chair to sign the Title VI/Non-discrimination Assurance

Vote: All in Favor

7) Committee Reports:

Board of Health –continues to address failed septic system and systems that require upgrading in addition to regular business; **Building Reuse Committee**- the RFQ for Building Needs Study is still out and we are waiting for responses; **Cable Advisory Committee**-discussed the resident cable survey format, PACC business plan and departmental, facility, and service needs for cable access; **Capital Planning Committee**- no report; **Conservation Commission**-held several hearings, Lake Shirley Improvement Corp. will need to file a new NOI for drawdown and herbicide and algacide treatment with the Conservation Commission. The hearing is August 5th. **Finance Committee**-Mr. Alonzo reported the **Finance Committee Appointing Committee** appointed Mark Erickson and Terese Burchfield to the Finance Committee earlier this evening; there is still a vacancy on the Finance Committee; **Library Board of Trustees**- no report; **MART Advisory**- no report; **MPO**- meeting rescheduled to the 30th, Ms. Luck will be attending; the Summer Street project informational meeting is tomorrow night; **Planning Board**-no report; **PACC**– no report; **School Committee**-no report; **School Building Committee**- met today to sign warrants and a change order totaling \$37,000 ; **Sewer Commission**-met on the 14th and is continuing work on grease trap compliance and infiltration inflow prevention; the Pratt Street sewer project has begun; **ZBA**-meeting tomorrow upon the petition for a special permit for 59 Easter Brook Road for a dimensional variation to create a new lot with reduced frontage in order to build a home.

Town Manager/Department Reports- Ms. Lafleur reported on the final Fiscal Year 2015 expenditure report. There are also five transfer requests for expenditures totaling \$14,442.62 as allowed under M.G.L. Chapter 44, §33B, that will be brought to this Board after Finance Committee review. She stated we are closing the fiscal year having expended \$31.6 million with a surplus of just under \$87,000. We have \$241,544.08 encumbered due to contracts in process at the end of the fiscal year, almost all between school and public works departments.

Appointment of Election Officers: Ms. Lafleur noted the legal opinion provided on conflict of interest law as applied when two part-time employees also serve as election officials. Any employee serving as an election officer would need to file disclosure of interest with the Town Clerk office. Mr. Ebersole noted in the disclosure from one employee, she states that her services will be provided outside her normal working hours as a municipal employee. He asked since state elections occur on Tuesdays, could we get clarification on whether vacation or personal time counts as outside hours. This item and the election officers' appointments will be placed on the next meeting agenda after the question is answered.

Appointment

Brian Leblanc has applied to be reappointed as Assistant Radio Operator.

Motion: B. Ebersole

2nd: T. Alonzo

To appoint Brian LeBlanc as Assistant Radio Operator

Vote: All in Favor

Public Comment: none

Motion: P. Bertram

2nd: B. Ebersole

To adjourn the meeting at 7:17 p.m.

Vote: All in Favor

Respectfully submitted,

Elaine M. Peterson

Elaine M. Peterson, Executive Assistant to the Town Manager

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