

**BOARD OF SELECTMEN  
MEETING MINUTES**

August 4, 2015

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. The meeting opened at 7:00 PM with the Pledge of Allegiance.

**Public Comment:**

Mr. Alonzo congratulated the town band for completing their five week concert series, adding it was a great event. He also announced the Library-sponsored "Great Cardboard Boat Race" at the Town Beach on Lake Whalom on August 8<sup>th</sup> at 5:00 p.m. Information is available at the Library. Rain date is Monday, August 10<sup>th</sup>.

Mr. Ebersole noted the passing of Gus Misner, a former full-time police officer who also served as a Lunenburg selectman. Ms. Luck thanked the Police Department for their diligent presence on Lake Shirley as well as Shady Point who regularly contributes financially to the boat patrols.

Mr. Toale announced the First Annual Stillman Dairy Community Country Fair occurring on Saturday, September 12<sup>th</sup>. This event is co-sponsored by the farm and Turkey Hill Lions Club. Proceeds will benefit the Lunenburg Food Bank. He also thanked residents for coming out to the Water District meeting.

Elaine Mroz, 64 Chestnut Street, wanted to remind everyone about the upcoming meetings regarding the Kinder Morgan pipeline. She encouraged the Board to attend these meetings as well.

Carl Luck, 50 Sunset Lane, stated he was here concerning the Lake Shirley discussion and asked for consideration later in the evening when the discussion occurs.

**Appointments**

Marilyn Talley, 172 Peninsula Drive, presented more information regarding the Stillman Fair. Lisa Normandin, Turkey Hill Lions Club President, was also present to request a Special One Day License for the sale of wine and malt beverages. Wachusett Brewery and Downeast Cider will be vendors serving that day. Ms. Lafleur asked the license be granted contingent on receiving the CORI and TIPS certification from Wachusett Brewery.

**Motion: T. Alonzo**

**2<sup>nd</sup>: P. Bertram**

**To approve the one day special license for beer and wine license contingent on receiving the TIPS certification and CORI application**

**Discussion: Ms. Bertram inquired about input from the Police Department. Ms. Normandin stated they would have a detail present that day. Ms. Talley also wanted to thank Executive Assistant Elaine Peterson for her assistance with the license application process.**

**Vote: All in Favor**

Ms. Talley and Ms. Normandin thanked the Board.

**Appointment of Jonathan C. May as Reserve Police Officer**

Police Chief Marino presented to recommend Jonathan May be appointed as a Reserve Police Officer. Jonathan May is currently employed full-time by the Fitchburg Fire Department. He has completed Police Academy, all the physical and background check requirements, trained as a police intern, and will complete the field training program, if appointed. Chief Marino believed he is a good candidate due to his educational background and extensive training in a public safety field.

**Motion: B. Ebersole**

**2<sup>nd</sup>: P. Bertram**

**To ratify the appointment of Jonathan May as Reserve Police Officer**

**Vote: All in Favor**

**Authorize Lake Shirley Improvement Corporation (LSIC) as Applicant for Town in Lake Shirley Order of Conditions**

Joanna Bilotta-Simeone, 362 Sunset Lane, President of LSIC, stated they are working with the Conservation Commission on two Orders of Condition (OOC); one for water drawdown for weed control and the other for chemical treatment application on Lake Shirley, a/k/a Shirley Village Reservoir. She stated at the meeting it was decided to combine them into one Notice of Intent for easier abutter notification. Also at the meeting it was determined the Town should be listed as owner with LSIC as the applicant.

Richard Bursch, Conservation Commission Chair, confirmed there were two applications in 2007. The chemical treatment was applied for and issued to LSIC. The drawdown was applied for by the Town and issued to the Town as the owner of Lake Shirley Dam. He stated it would be easier to place both into one document this time. He added when he had checked the Assessor maps, the Town comes up as the owner of Lake Shirley.

Mr. Alonzo stated the title search performed in 2009 on Lake Shirley, is inconclusive; it states the Town owns a portion of the fee in the lake; the entire fee in the land upon which the dam is located, but the basin ownership is unclear. He suggested following Town Counsel's advice to list the Town as an entity with a fee interest in the lake. Ms. Bertram expressed some concern as there is no place on the Order of Conditions to state that.

Mr. Ebersole suggested it would be more appropriate for the chemical treatment to be applied for by LSIC because LSIC clearly has interests in the lake and it is not clear whether the Town does. Discussion ensued on who else has interest in the lake. Ms. Bertram asked for clarification on the requirement for identifying an owner on an OOC from Mr. Bursch. Mr. Bursch stated the OOC asks for an owner so that work can't be done on properties that the applicants don't have permission to work on.

Mr. Alonzo stated since the Town has some fee interest in the lake and barring anyone else claiming ownership of the lake, the Town has the ability to allocate someone to be an applicant in order to do something on the lake.

**Motion: B. Ebersole**

**2<sup>nd</sup>: P. Bertram**

**To authorize LSIC to be the applicant for a Notice of Intent for Lake Shirley for chemical treatment and drawdown program to the extent that the Town has ownership in the dam and Lake Shirley and that the Town has no financial liability involved in performing the treatment or drawdown**

**Discussion:** Mr. Toale asked if this increases the Town's liability as a Town to allow an applicant to make a request of the Conservation Commission to treat or not treat. Ms. Bertram believed so. Mr. Alonzo added no more than we already have today.

Ms. Luck stated earlier today she had spoken with Deirdre Roney, General Counsel at the State Ethics Commission, about her participation on this agenda item. Ms. Roney said "Municipal officials are prohibited from participating in matters in which they have a financial interest, and are presumed to have a financial interest in decisions about property they abut. Here, however, you are not being asked to make a decision about the lake itself, but only about whether to appoint the Lake Association as the Town's agent for purposes of making an application to the Conservation Commission concerning the lake. You do not have a financial interest and believe you can be impartial, and therefore may participate after using the disclosure form to divulge publicly and in writing that you own property on the lake and were previously a member of the Lake Association. You should also make the same disclosure orally at the meeting tonight. Having made that disclosure, you may participate in the matter."

Carl Luck, as a resident of Lake Shirley, stated he fully supports this program. As a resident he appreciates the Town taking on more liability in order to do this. He expressed concern that over the past six or seven years there has been a detailed OOC in place that has not been complied with, which could lead to increased liability to the Town. He would like to encourage more vigilance on compliance by all those involved. The history of past performance does not build a lot of confidence in him. Something needs to be done differently going forward. Mr. Alonzo stated the LSIC has paid for the filing fees in the past. He suggested adding there is no financial liability involved for the Town in performing the treatment or drawdown. **Mr. Ebersole stated he would agree to amend the motion to include this. Ms. Bertram seconded the amendment.**

**Vote: All in Favor**

Mr. Ebersole asked the Conservation Commission to ensure the listed conditions are verifiable so that everyone understands what is expected of them over the three year period. Mr. Bursch stated while the commission does

oversee the project, the commission doesn't have any comment either way. He checked with the agent, Matt Morrow, and he has been satisfied with the performance to date of the LSIC. There were algae problems and when it was brought to the LSIC attention, they were receptive to trying to update their program and implementing changes as directed. He felt confident he could work with LSIC in the future. Ms. Bertram asked the commission to ensure they receive and review the monitoring reports.

Ms. Bilotta-Simeone stated that LSIC has raised and spent over \$200,000 on Lake Shirley through residents making donations. Mr. Ebersole suggested the Board, as owners, receive the reports that the Conservation Commission receives from LSIC as well. Ms. Bilotta-Simeone stated all the reports are online at [www.Lakeshirley.com](http://www.Lakeshirley.com).

Ms. Luck read from the Special Conditions for the Lake Shirley Aquatic Management Program Order of Conditions, "The LSIC will monitor algal populations and water clarity weekly beginning no later than mid-June and continuing throughout mid-September. Samples will be collected from each of the three basins. An algal expert will perform the algal identification and counts." Richard Bursch stated in the current order of conditions it is not listed that they send the reports to us to review. Ms. Luck replied so, at the end of the year you become aware that they have done this every week. To which Richard Bursch replied "Correct." Ms. Bilotta-Simeone added Dominic and Jerry include that in their report. Ms. Bilotta-Simeone stated all the reports are online at [www.Lakeshirley.com](http://www.Lakeshirley.com). Ms. Bilotta-Simeone thanked the Board. Mr. Ebersole wanted to inform the public the reason the Town is involved in this. In 1987 the Town received and accepted a deed in order to receive state funding to repair the dam. Ms. Bertram stated she would like to discuss this at some point because a condition of receiving the state funding was there had to be public access to the lake. She believed land known as Stump Cove was turned over the Town. Anyone who has seen Stump Cove knows there is no public access there. She believes the Town should look at providing public access. Ms. Bilotta-Simeone confirmed that kayakers use Swamp Cove. There is no parking area located there. Mr. Toale stated it could be a future agenda item.

### **Pole Petition – Sunset Lane**

Mr. Toale read the hearing notice aloud:

"In conformity with the requirements of Section 22 of Chapter 166 of the General Laws (Ter. Ed.), you are hereby notified that a public hearing will be held at the Town Hall, 17 Main Street, 2nd Floor, in the Joseph F. Bilotta Meeting Room, Lunenburg, MA, on Tuesday, August 4, 2015 at 7:30 p.m. upon petition of Fitchburg Gas & Electric Light Company, for permission to erect or construct, and a location for, a line of wires, poles and such other fixtures as may be necessary to sustain or protect the wires of the line, for the transmission of electricity, upon, along, across, or under the following public ways of said Town: **Sunset Lane**

**Approximately 900 feet north of Robbs Hill Road, installing one new sole owned pole for service to 110 Sunset Lane, Lunenburg Unitil Plan No. 961-L dated 6/30/2015**

Location approximately as shown on plan attached. Wherefore it prays that after due notice and hearing as provided by law, it be granted a location for and permission to erect and maintain poles and wires, together with such sustaining and protecting fixtures as it may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked. Also for permission to lay and maintain underground laterals, cables, and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of the petitioners many desire for distributing purposes. "

Jim Dee of Unitil reported a new pole line was needed on Sunset Lane because the original construction pole line goes through the woods on the lakefront for camps. Since then a new pole line has come down the street and one by one Unitil has been taking their lines off the lakefront construction pole and moving them to the street. There are four more residences that need to come off the street before Unitil can remove the old poles and wires off the lakefront. This is one pole for secondary wires and cable to serve Sunset Lane.

**Motion: B. Ebersole**

**2<sup>nd</sup>: T. Alonzo**

**To approve the location of the pole on Sunset Lane approximately 900 feet north of Robbs Hill Road as proposed on plans as submitted**

**Vote: All in Favor**

### **Continuance of Class II Auto Dealer License Hearing for 10 Mass Avenue**

Mr. Toale reopened the hearing. Mr. Inayat reported he had met with the Planning Board and all of their conditions were met. Mr. Alonzo asked for clarification on the plot plan. Mr. Inayat stated the areas indicated are the buildings located at 6 and 10 Mass Ave., he will be leasing the side of the rectangular building shown on the plan. That is located at 10 Mass Ave. Mr. Toale closed the public hearing.

**Motion: B. Ebersole**

**2<sup>nd</sup>: P. Bertram**

**To approve the Class II Auto Dealer License located at 10 Massachusetts Ave. per their application and subject to Planning Board and Zoning Board of Appeals requirements**

**Vote: All in Favor**

Mr. Inayat thanked the Board and exited the meeting.

**2) Disclosure by Municipal Employee of Financial Interest Notice for Jan Carrier**

Ms. Lafleur reported Conservation Commission Administrative Assistant Jan Carrier is one person recommended for appointment as an Election Officer position and because she is a municipal employee, she had been advised to file a Disclosure of Financial Interest by a Municipal Employee. The Board of Selectmen acting as the appointing authority of the election officer position should provide a ruling on this disclosure statement. Discussion ensued on whether to designate the positions as Special Municipal Employees. Ms. Lafleur noted it should be listed on the next meeting agenda but the Board could act on the disclosure this evening.

**Motion: B. Ebersole**

**2<sup>nd</sup>: P. Luck**

**To accept the disclosure by municipal employee of financial interest notice submitted by Jan Carrier**

**Vote: All in Favor**

**Conrad's Drive-In Inc. One Day Special License - 835 Massachusetts Avenue**

David Leet appeared regarding the license application for a one day special license for beer and wine on August 6, 2015. This is a for profit event; the 3<sup>rd</sup> Annual Cruise Night. A police detail has been arranged. Police Chief Marino had no issues with the license.

**Motion: T. Alonzo**

**2<sup>nd</sup>: P. Bertram**

**To approve the special one day license for Conrad's Drive- In, Inc. for Saturday, August 6, 2015 from 5:00 to 9:00 PM**

**Vote: All in Favor**

Mr. Leet thanked the Board and exited the meeting.

**3) Amendment to School Project Funding Agreement/Total Project Budget**

Loxi Calmes, School Superintendent, reported on October 21, 2014, the Massachusetts School Building Authority (MSBA) entered into an agreement for project funding with the Town. She presented an amendment to the agreement after bid adjustments, as the original agreement had been based on estimates. The estimated maximum total facilities grant is listed at \$34,122,826. The maximum facilities total facilities grant is listed as \$34,397,907. The basis of the estimated total facilities grant is \$57,727,671. She stated there is no change based on the feasibility study agreement. There is no change in the administration subtotal, nor are there changes in architectural/engineering or site acquisition. The numbers under the construction cost have been changed to reflect the bids that were awarded as part of this process from the previous amount of \$59,577,028 to \$57,994,017. Likewise, items that were excluded from the basis of estimated total facilities grant or otherwise ineligible has been adjusted from \$11,000,000 to \$10,052,403. The total project budget is now \$67,820,074, adjusted from a previous amount of \$69,396,785. Excluded ineligible items from the basis of estimated total facilities has been adjusted to \$10,092,403, bringing the basis of estimated total facilities grant to \$57,727,671, reduced from the previous number of \$58,378,108.

Design enrollment remains at 820 students. The total building gross floor area did not change and remains at 169,018 (GSF). Reimbursement rate will be at 59.11 percent.

Construction contingencies have been increased to \$4,170,774 from the previous amount of \$2,978,531. The maximum total facilities grant after all other contingencies is \$34,397,907, bringing the total project budget to \$72,590,848. She concluded the review stating this is brought before the Board for their consideration and signature.

Mr. Alonzo noted the calculation on the contingencies table appeared incorrect. Ms. Calmes stated she would go back and recheck but believed it was the reimbursement rate because it reflects that percentage of what was eligible. She added it could also include the recapture relative to the other heating project and will double check. Ms. Calmes then gave a brief update on the school construction.

**Motion: B. Ebersole**

**2<sup>nd</sup>: T. Alonzo**

**To approve the first amendment to the project funding agreement between the Town of Lunenburg and the Massachusetts School Building Authority as presented**

**Ms. Bertram suggested amending to authorize the Chairman to sign the amendment on the contingency that we investigate the maximum total facilities grant. Mr. Ebersole amended his motion subject to clarification of the difference between potential additional contingency grant funds and the maximum total facility grant not reflecting that entire amount. Mr. Alonzo stated his second would reflect that contingency.**

**Vote: All in Favor**

4) Mr. Toale stated the ROFR for White Street has been moved to the agenda on August 11<sup>th</sup> due to the Conservation Commission holding their meeting on August 6<sup>th</sup>.

#### **5) Townsend Statement to Massachusetts Energy Facilities Siting Board (EFSB)**

Mr. Toale presented the comment to the EFSB drafted by resident Elaine Mroz. He asked for comments. Mr. Alonzo did not believe there were any new rights of way as described in the draft when Kinder Morgan did their expansion in 2009. He believed the easement was already there. He also noted the word contractor should be changed to sub-contractor for clarity.

Mr. Toale stated the EFSB meeting is August 6<sup>th</sup> at 7:00 PM at the Lunenburg High School and a Board member should submit this letter there. There is also the Federal Energy Regulatory Commission (FERC) meeting on August 12<sup>th</sup> at the Lunenburg High School at which time we should submit the Board's proclamation noting our position on the pipeline in general. Mr. Toale stated the DPU hearing (on Unitil) is the same night, on August 12<sup>th</sup>. Ms. Lafleur stated the Board should be present at both meetings. The date for the second public hearing has not been set yet. Mr. Ebersole offered to attend the DPU meeting. Mr. Alonzo asked if this Board has gotten any feedback from the Conservation Commission due to some sensitive areas noted on the map. Ms. Lafleur stated we have not received anything from them. Ms. Bertram suggested the Conservation Commission consider this on their meeting on the 19<sup>th</sup>. Ms. Lafleur noted FERC is accepting environmental impact statements until August 31<sup>st</sup>. Elaine Mroz stated she was a little distressed the Town wasn't formally notified by the MA EFSB of this meeting. Their comment period ends on August 13<sup>th</sup>; MA EFSB don't really have any decision making authority. The Board discussed these upcoming meetings and discrepancies with the maps provided by Kinder Morgan.

Mr. Ebersole asked the Town Manager to post the maps on the town website. Ms. Lafleur stated they are already posted on the Town website home page under Public Notices. Mr. Alonzo urged residents to attend and voice their concerns. Ms. Mroz suggested the Board contact their State Senator regarding this issue. Mr. Alonzo suggested contacting both Senators and State Representative Tsongas as well. Ms. Lafleur confirmed we have already been in contact with Rep. Tsongas' office. Mr. Toale thanked Ms. Mroz for all the work she has done to date.

Mr. Toale stated the joint meeting with the Townsend Selectboard on August 11<sup>th</sup> has been cancelled by them and he sees no reason to meet with Townsend after the public hearing on the 12<sup>th</sup>. Mr. Alonzo asked if Townsend does want to reschedule what would be the reason for meeting. Mr. Ebersole pointed out that this Board already had Townsend's statement and agrees with it.

Mr. Toale stated the ROFR for White Street has been moved to the agenda on August 11<sup>th</sup> due to the Conservation Commission holding their meeting on the 6<sup>th</sup> regarding the land.

Minutes of April 14, 2015 and July 7, 2015 were approved. The first commitment of fiscal year 2016 for the Lunenburg Water Department in the amount of \$6,644.37 was presented. An accounts payable warrant amounting to \$498,171.24 was presented, as well as a school construction project warrant totaling \$3,803,794.80.

#### **6) Action File Issue**

Mr. Ebersole stated one item was the Animal Control Officer job description. It will be discussed at a later date.

**7) Committee Reports:**

**Board of Health** –no report; **Building Reuse Committee**- meeting this Friday to review responses on the RFQ for Building Assessment & Space Needs Study; **Cable Advisory Committee**- no report; **Capital Planning Committee**- no report; **Conservation Commission**-no report; **Finance Committee**- no report; **Library Board of Trustees**- no report; **MART Advisory**- no report; **MPO**-Ms. Bertram commented that the Summer Street hearing was held and was well attended, most attending were in favor; some were concerned about parking, there will be onsite walkthroughs; Ms. Luck attended the MPO meeting with Ms. Lafleur on July 30<sup>th</sup>, the TIP was voted favorably; there was an adjustment to the 2018 TIP- a Hubbardston project was removed to keep under the fiscal cap; Leominster Mayor Mazzarella was appointed by Governor Baker to the MA DOT Board of Directors; he will represent communities outside of Boston; **Planning Board**-no report; **PACC**– no report; **School Committee**-workshop on August 13th on the school department master plan; **School Building Committee**- no further report; **Sewer Commission**- no quorum at the last meeting; **ZBA**- no report  
**Town Manager/Department Reports**- Ms. Lafleur reported the Town did file two petitions for intervener status on both Unitil rate cases ( electric and natural gas), we have not received word that they have been accepted because we filed late, they know why we filed late. There is a hearing on August 12<sup>th</sup> and she will draft some comments for the Vice Chair to present at the meeting.

Ms. Lafleur is in the process of scheduling an Open Meetings law workshop with Town Counsel, we are looking at September 28 or 30, in the evening. More will come later on the final date, whichever meets most departments' schedules. It will probably be in the Library meeting room and recorded for those who can't attend.

**APPOINTMENTS**

**Motion: T. Alonzo**

**2<sup>nd</sup>: P. Luck**

**To approve the appointment of the following Election officers as written on the agenda**

**Election Officers: Warden: Janice P. Carrier(R); Deputy Warden: Michael Gale (R), Clerks: Kathleen M. Pliska(D) and Darlene E. Steele (D), Inspectors: Ellen Aubuchon (D) and B. Ellen Gale (R); Deputy**

**Inspectors: Ernest Aubuchon (D) and Anne Shattuck (R)**

**Vote: All in Favor**

Mr. Toale announced the next meeting will be on August 11 at 7:00 PM in Lunenburg.

**Public Comment:** none from the public.

Mr. Ebersole noted the Public Records Law has gone back to committee; in the meantime the Secretary of State has filed an initiative petition to get the public records law change on the next ballot.

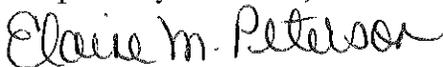
**Motion: P. Bertram**

**2<sup>nd</sup>: T. Alonzo**

**To adjourn the meeting at 8:55 PM**

**Vote: All in Favor**

Respectfully submitted,



Elaine M. Peterson

Executive Assistant to the Town Manager