

TOWN OF ASHBURNHAM
BOARD OF SELECTMEN MEETING
TUESDAY – SEPTEMBER 7, 2010 – 7:00 p.m.
TRAINING ROOM – PUBLIC SAFETY COMPLEX

This meeting was aired live on local cable television.

PRESENT: Ed Vitone, Chair, Maggie Whitney, Clerk, Ron Reed, Member, Doug Briggs, Town Administrator and Sylvia Turcotte, Assistant to the Town Administrator.

I. The Pledge of Allegiance was led by Maggie Whitney. Vitone called the meeting to order at 7:03 p.m.

II. SOLICIT PUBLIC INPUT

III. APPROVAL OF AGENDA

Whitney motioned to approve the agenda as presented and was seconded by Reed. Motion carried.

IV. PRESENTATIONS & REPORTS

A. Firehouse Pub – Liquor License Application Request Continued (7:10 p.m.)

Vitone stated that Joshua Wright would be late and asked if this could be put off until he arrives.

B. Discussion with the Special Act Study Committee re: Proposed changes to Special Act and General Bylaws

Members of this Committee present were Pixie Brennan, Lois Somers, Mark Carlisle and Dottie Munroe (also Ed Vitone).

Vitone stated that the Committee had just finished meeting and voted on three additional changes. The changes were as follows:

1. Section 2 – change sentence beginning with “Any individual” to the following *Any individual who wishes to present what is believed to be a violation of any town bylaws, procedures, policies, or state/federal laws may approach any one of the three Ombudsmen.*
2. Same section – add the following sentence after – The review requires obtaining factual information about the specific matter and researching and applying pertinent policies. *The Ombudsman will involve the Town Administrator in the investigation unless the concern directly pertains to the Town Administrator.*
3. Section 10, L – add the following sentence after – The Town Administrator shall be the Selectmen’s agent for collective bargaining and is authorized to negotiate within parameters established by the board. The Town Administrator may employ special counsel to assist him in the performance of these duties. *Any grievances filed by any collective bargaining group will be brought to the attention of the Board of Selectmen by the Town Administrator.*

Reed stated that he had concerns with Sections 2, 5 and 6. Briggs stated that he had issues with Section 5 and Whitney stated that she was okay with the proposed changes.

Reed began the discussion by stating that he did not agree with Section 2, the third paragraph, that the Town needs an Ombudsman. He stated that all Town employees already know about the procedures that are in place and he felt that this would create more problems. Pixie Brennan addressed this by stating that the number one reason was that there are certain circumstances that occur and they want to ensure that past

experiences don't happen again. She noted that they want the employees to know that they have a place to go with issues. Some discussion followed.

Vitone noted that other communities have this and that the Board of Selectmen will be the deciding vote. Whitney stated that she had no issue with what the Committee is proposing.

Briggs stated that he was against the Ombudsman as he felt it was not the way to solve issues. He stated that there would be no control over the unions and there is a personnel policy in place along with many other procedures to protect the employees. Brennan reiterated that they want to avoid what happened in the past. Reed also reiterated what both he and Briggs stated that the Town has procedures and policies already in place and there was no need to have this.

Vitone then asked Reed what his concerns were with Section 5. Reed stated that he had an issue with the residency requirement, noting that the Town may lose a good candidate with this in place. Briggs stated that he questioned the portion that reads "experience in a supervisory administrative position *a portion of which must be in the public sector.*" Both Reed and Vitone suggested that they change the wording on this to include "or".

There was some discussion on the residency requirement portion with Lois Somers noting that in times of crisis, the Town Administrator needs to be closer. Vitone stated that they would reflect and decide on this at the next meeting.

Vitone asked Reed about his concerns with Section 6 and Reed spoke about the fact that the Selectmen were not able to act as Town Administrator for any length of time and that he had some concerns about who would be the appointed official during an unexpected circumstance.

Vitone summarized the concerns: 1) the Ombudsman; 2) the 40 mile radius residence requirement and 3) the wording on who would be appointed to fill in as acting Town Administrator. He also noted that Section 9 would be discussed with Town Counsel and worded correctly.

Vitone stated that the Board of Selectmen would take this all under advisement and discuss it at their next meeting.

B. Firehouse Pub – Liquor License Application Request Continued

In attendance were Josh and Richard Wright as well as a number of concerned residents. Briggs stated that Fire Chief Zbikowski and Building Commissioner Mike Gallant walked through the premises and both agreed that there should be no tables or chairs on the left on the side of the building. They also stated their concerns about the smoking regulations. Briggs proceeded to read MGL Chapter 270 on smoking regulations as follows:

"(e) If the outdoor space has a structure capable of being enclosed by walls or covers, regardless of the materials or the removable nature of the walls or covers, the space will be considered enclosed, when the walls or covers are in place. All outdoor spaces shall be physically separated from an enclosed work space. If doors, windows, sliding or folding windows or doors or other fenestrations form any part of the border to the outdoor space, the openings shall be closed to prevent the migration of smoke into the

enclosed work space. If the windows, sliding or folding windows or doors or other fenestrations are opened or otherwise do not prevent the migration of smoke into the work space, the outdoor space shall be considered an extension of the enclosed work space and subject to this section.”

He also noted that he had received letters from concerned area residents on this proposed liquor license alteration of premises.

Josh Wright stated that the Building Commissioner had said that he would allow 3 chairs at a pub table but that with two chairs there would be more space as the three chairs would be the egress problem. Vitone added that there shouldn't be any tables from the double doors to the egress at the front of the building as the letter from the Building Commissioner stated.

Wright noted that he would like his patrons to be able to take a drink out in that area but that he would leave it up to the State to decide. He also stated that he would like to keep the closing time for the outside area until 1:00 a.m. which would be the same closing time as the present. He noted that he would not modify this.

Reed stated that maybe there should be a probationary period and they should look for a compromise to keep the noise level to a minimum. The issue about smoking in the open area was discussed and Wright inquired if it might be allowed after the dining hours.

Vitone stated that these were the questions that need to be answered:

1. Can you smoke after dining in the area?
2. Is there a limit to the number of people allowed to congregate there?
3. Is a gate or crash bar required for patrons to get out of the area as an egress?

Vitone noted that question 1 would be the Board of Health's decision, question 2 would be the Building Commissioner's call and question 3 would be the ABCC as well as an okay from the Fire Department once in place for final inspection. Vitone reiterated that they must have the Fire Chief's okay on the egress.

Vitone stated that they would hear from the residents at this time. The first was Mrs. Gagne who resides adjacent to the Pub. She questioned why a 1:00 a.m. closing time as the patrons stay until much later in the parking lot. Vitone stated that this was really not the subject matter up for discussion at this time.

Pixie Brennan inquired if a sound buffer fencing could be used between the Pub parking lot and the residents. Wright stated that it was extremely expensive material and was not cost effective. Rich Wright added that they were trying to keep it looking nice.

Janice Roy, another resident who lives nearby, stated that the noise carries and Bernadette Clark who lived across the road agreed stating that it was very noisy with revving engines and peeling out of the parking lot at closing time. She added that they have a right to peace and quiet and that the smokers now make a lot of noise. She noted that they needed a buffer to the sound and they should consider the people around the Pub. In response Josh Wright stated that the area is zoned in the Town maps as a business area where they could be built near homes.

Vitone summarized by stating that Wright is requesting to add outside dining, drinking, with no smoking and the residents are concerned that it would be even noisier. He stated the Board should vote subject to these issues being clarified.

Briggs stated that they also needed to vote on the Change of Manager. Vitone asked if the members of the Board would accept the alteration of premises with modifications. Reed stated that maybe they should limit the outdoor hours to 11:00 p.m. and Wright stated that he wanted to try it at the current hours, with the 1:00 a.m. closing time.

There was some discussion on whether doormen were present.

Reed stated he was ready to make the motion to approve the patio area with the aforementioned conditions being met. Vitone noted that the residents had legitimate concerns and that he wanted to find some middle ground. He stated that he was inclined to go with the curtailing of hours option with 11:00 p.m. across the board and give it a trial and then come back. Josh Wright stated that he wanted them to allow it as is. He also asked if smoking would be allowed after the dining is over in the area, as well as drinking.

Whitney stated that she had no comment and that they should give it a trial at the 1:00 a.m. closing time and if the noise level is bad, then look to change it. She noted that she was against the establishment at first when it opened but it is well run, with no riff-raff.

Reed stated that the ABCC might require something that reduces the noise level so they should let it go until the ABCC has given their input. He stated that he had no problem with this except the three aforementioned questions so they should start there. Josh Wright stated that if there is a problem to call them and they would resolve it.

Reed motioned to allow the permit subject to the three questions being answered which are as follows:

- 1. Dining and smoking***
- 2. Number of persons***
- 3. Rules set forth by MGL – ABCC***

Whitney seconded. Reed and Whitney voted aye. Vitone opposed re: hours only. Reed motioned to approve the Change of Manager as requested and Whitney seconded. Motion carried.

At this time the Board continued its discussion on the proposed changes to the General Bylaws with the Committee.

Reed noted his five concerns included: 1) fines – shouldn't be raised randomly; 2) the new Selectman – serving after Town Meeting; 3) emergency access to Town buildings – policy?; 4) Advisory Board spending; and 5) Town Administrator prosecution.

Lois Somers, a member of the Special Act Study Committee, stated that at least two public hearings needed to be set before these proposed changes could be included on the STM warrant and Briggs stated that he would get these scheduled.

V. UPDATE – STUDENT REPRESENTATIVE FROM OAKMONT

VI. OLD BUSINESS

A. Review of BOS Initiatives and Task List

Whitney stated that there was only one item on their task list and that was regionalization.

Reed noted that he attended a seminar on regionalizing the ConCom Agent position and stated that he found it to be interesting and worthwhile.

B. Special Town Meeting date change

Briggs stated that the Board needed to vote to change the date of the Special Town Meeting from November 18th to November 17th as there was a school conflict at Oakmont on the 18th. *Whitney motioned to set November 17th as the date for the Special Town Meeting and was seconded by Reed. Motion carried.*

VII. TOWN ADMINISTRATOR'S REPORT (His report is attached to these minutes.)

Briggs went over his Special Town Meeting timeframe schedule as follows:

September 7 th	Set STM for November 17 th
September 22 nd	Close warrant
October 4 th	Review articles with Adv. Bd. and send to Town Counsel
October 18 th	Receive final verbiage on warrant from Town Counsel
November 1 st	Post warrant
November 1 st	Receive final cost of Briggs School Project
November 17 th	Special Town Meeting
December 16 th	Special Ballot – Briggs School Project

Briggs noted that both he and Anne Cervantes attended a Worcester Regional Retirement System meeting on August 26th where they discussed a Tax Amnesty program, early retirement incentive, funding relief and the increased COLA on retirement benefits.

Reed noted that the Town had initiated a Tax Amnesty Program in the past and that it was very well received and it should be offered again.

Vitone stated that Briggs should send a letter to both Senator Brewer and Rep. Rice noting how unfair it would be if the Town of Ashburnham was made to pay a share of retiree health insurance if a former employee retires from another town in which it was offered. He added that this was just another unfunded mandate by the State.

Briggs touched on the EECBG Grant for the solar panels stating that Oakmont was completed and the Public Safety Complex would be all set by the end of the week or the beginning of next week. Vitone noted that there should be a sign stating what this project is.

Briggs stated that the Town Hall roof repair was completed and that the elevator at Town Hall was also completed and inspected at a cost of about \$2,000.

He stated that he would be interviewing two candidates for the Land Use Administrator position and he was hopeful that the chosen candidate would start September 21st.

On the VMS Renovation, he explained how we missed getting this grant by 8 points. He stated that he met with the DHCD in Boston to decide how to proceed and he was told

that regionalization was the way to go. He noted that they could submit a regionalized application for both towns, Westminster and Ashburnham, and then apply separately at the construction phase.

He stated that the paperwork had been submitted to the State to get our free cash certified. He also noted that as one of their Goals & Objectives, the Finance Team, which included Anne Cervantes, Nancy Haines, Carla Clifford and Harald Scheif would be meeting monthly to discuss things and to work together.

He noted that the Town of Leominster offered to hold a session on September 14th for a group from Ashburnham to train on the Munis system for Water and Sewer billing and to also be available to answer any questions after the training. He noted his gratitude to this community adding that this would be invaluable for the Town's future improvements.

He stated that the Department Heads were ready to go before the Board of Selectmen to present their Goals and Objectives. Vitone stated that it would be quick, three to five minutes maximum, to review last year and this year's goals and objectives.

Briggs briefly noted that he would be going to the Advisory Board to request a transfer from the Reserve Fund to cover a general 3% wage increase for the non-union employees. He added that this is due to the fact that the unions did not relinquish their raises this year.

Briggs stated that the Light Department rented a bucket truck for the Fire Department to go forward to remove old wires off the telephone poles. He stated that the wires were causing a concern for the Light Department personnel. He added that the job was completed by the Fire Department in half the time that was anticipated and Stan Herriott thanked them for the great job.

Briggs advised the Board that there was someone who was interested in donating property to the Town. He stated it was a 13,000 sq. ft. property and that he was informed by Sallie Thoma, the Chair of the Rail Trail Committee, that it would be integral to the Ashburnham Rail Trail.

Briggs wanted to let residents know that on Saturday, October 9th, in front of Town Hall, a Community Shred Day would be held and that it was sponsored by Athol Savings Bank. He added that this event was a great success last year and that it was open to all residents.

VIII. NEW BUSINESS

B. Request for purchase through the Gordon E. Erickson Memorial Fire Rescue Fund

Briggs stated that the Fire Chief has requested three items to be purchased through this fund and he added that he supported this. The Chief's request included the following:

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| 1. Accountability tag and tracking board system | \$ 700 |
| 2. Rapid Intervention Team equipment | \$5,500 |
| 3. Air bag system | \$5,660 |

Whitney made the motion to approve the request and was seconded by Reed. Motion carried.

A. 250th Celebration Committee Appointments

Briggs suggested that because there were so many requests to serve on this Committee, they should prioritize residents. Reed stated that they should appoint a main committee and then a sub-committee. Vitone stated that they would decide at the next meeting on appointments.

IX. CONSENT AGENDA

A. August 16, 2010 Minutes – Regular Meeting

Reed motioned to approve the consent agenda and was seconded by Whitney. Motion carried.

X. ANNOUNCEMENTS

Whitney read the announcements as follows:

Town Clerk Reminders:

- Absentee ballots are now available in the Town Clerk's office at Town Hall
- Monday, September 13th 12:00 noon – Last day to file applications for absentee ballots for voters who will be out of town for the State Primary.
- Tuesday, September 14th – State Primary – Polls open at 7:00 a.m. and close at 8:00 p.m. at the J.R. Briggs Elementary School, 96 Williams Road
- Wednesday, October 13th – Final registration for the State Election 8:00 a.m. to 8:00 p.m.
- Monday, November 1st – 12:00 noon – last day for filing applications for absentee ballots for voters who will be out of town for the State Election.
- Tuesday, November 2nd – State Election – Polls open 7:00 a.m. and close at 8:00 p.m. – J.R. Briggs Elementary School Gym, 96 Williams Road.

Whitney also noted that the Brian's Gift Road Race will be on Saturday, September 25, 2010.

The next meeting of the Board of Selectmen will be held on Monday, September 20th at 7:00 p.m. at the Public Safety Complex in the Training Room.

XI. BOS CORRESPONDENCE

XII. SOLICIT PUBLIC INPUT

XIII. EXECUTIVE SESSION

XIV. ADJOURNMENT

At 9:05 p.m., with no further business, Whitney motioned to adjourn the meeting and was seconded by Reed. Motion carried.