

**MINUTES OF BOARD OF SELECTMEN MEETING
MONDAY, JULY 1, 2013**

Chairman Delaney called the meeting to order at 6:30 p.m. in Room 14 at Town Hall in the presence of members, Mr. Foti, Mr. Mauceri, Mr. O'Leary, Mr. Prisco, and the Town Administrator, Greg Balukonis.

1. EXECUTIVE SESSION:

MR. CHAIRMAN, I MR.FOTI MOVE TO ENTER INTO EXECUTIVE SESSION FOR THE PURPOSES OF COLLECTIVE BARGAINING AND LITIGATION STRATEGY, SUCH DISCUSSIONS IN OPEN SESSION WILL HAVE A DETRIMENTAL IMPACT ON THE TOWN, AND FURTHER THE BOARD OF SELECTMEN WILL RETURN TO OPEN SESSION FOR THE REGULAR SESSION.

SECONDED BY: MR. O'LEARY
VOTED: MR. FOTI AYE
MR. DELANEY AYE
MR. PRISCO AYE
MR. MAUCERI AYE
MR. O'LEARY AYE

Reconvene into Regular Session at 7:04 pm

2. CALL THE MEETING TO ORDER

3. MINUTES:

MR. CHAIRMAN, I MR. FOTI MOVE TO APPROVE THE MAY 6, 2013 REGULAR SESSION MINUTES AS AMENDED: *REMOVE ON PAGE 13 MR. FOTI STATED THAT IF QUESTIONS ARE BEING RAISED ABOUT PAYROLL THEY ARE BEING QUESTIONED.*

SECONDED BY: MR. O'LEARY
VOTED: UNANIMOUS (5-0)

MR. CHAIRMAN, I MR. FOTI MOVE TO APPROVE THE MAY 6, 2013 EXECUTIVE SESSION MINUTES AS WRITTEN:

SECONDED BY: MR. O'LEARY
VOTED: UNANIMOUS (5-0)

MR. CHAIRMAN, I MR. FOTI MOVE TO APPROVE THE MAY 20, 2013REGULAR SESSION MINUTES AS WRITTEN:

SECONDED BY: MR. O'LEARY
VOTED: UNANIMOUS (5-0)

MR. CHAIRMAN, I MR. FOTI MOVE TO APPROVE THE JUNE 3, 2013REGULAR SESSION MINUTES AS WRITTEN:

SECONDED BY: MR. O'LEARY
VOTED: UNANIMOUS (5-0)

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MR. CHAIRMAN, I MR. FOTI MOVE TO APPROVE THE JUNE 17, 2013 REGULAR SESSION MINUTES AS WRITTEN:

SECONDED BY: MR. O'LEARY
VOTED: 4-0-1 (MR. PRISCO)

MR. CHAIRMAN, I MR. FOTI MOVE TO APPROVE THE JUNE 17, 2013 EXECUTIVE SESSION MINUTES AS WRITTEN:

SECONDED BY: MR. O'LEARY
VOTED: 4-0-1 (MR. PRISCO)

4. LEGAL BILLS:

MR. CHAIRMAN, I MR. FOTI MOVE TO APPROVE LEGAL BILLS FOR MAY 2013 IN THE AMOUNT OF \$18645.92 AS FOLLOWS:

KOPELMAN AND PAIGE, P.C. (GENERAL)	\$6,767.92
KOPELMAN AND PAIGE, P.C. (LABOR)	\$ 1728.00
AMERICAN ARBITRATION ASSOC.	\$ 150.00
FURMAN GREGORY DEPTULA	<u>\$10,000.00</u>
	\$18645.92

SECONDED BY: MR. O'LEARY
VOTED: UNANIMOUS (5-0)

5. PUBLIC COMMENT:

Chairman, Delaney asked for Public Comment. No Public Comment.

9. LIAISON ASSIGNMENTS:

Mr. Delaney made two changes from the 2012-2013 Liaison Assignment list.

- (1) Mr. Prisco will be the Liaison to the CPC
- (2) Mr. Foti will be the Liaison to RMLD

10. APPROVE BOARD OF SELECTMAN CALENDAR:

Mr. Delaney read the request of the School Committee to use Room 14 at the Town Hall because they will no longer have access to the Library at the Middle School to conduct their meetings.

Mr. Balukonis presented the Board's meeting schedule.

Mr. Mauceri asked about the remaining meeting in July and August. Mr. Delaney and Mr. O'Leary will not be in attendance on August 5, 2013.

Whether to have the August 5, 2013 meeting will be determined at the next meeting.

The consensus of the board is to approve the use of Room 14 to the School Committee.

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11. APPROVE VISITORS CODE OF CONDUCT:

Mr. Balukonis presented the reasons why the town needs a Visitor's Code of Conduct.

MR. CHAIRMAN, I MR. FOTI MOVE TO APPROVE THE TOWN OF NORTH READING VISITOR'S CODE OF CONDUCT.

SECONDED BY: MR. O'LEARY
VOTED: UNANIMOUS (5-0)

Mr. Balukonis updated the Board on the various security upgrades to Town Hall with a report dated June 26, 2013.

12. APPROVE EARLY RETIREE REINSURANCE AGREEMENT

Mr. Balukonis presented the Early Retiree Reinsurance Agreement.

MR. CHAIRMAN, I MR. FOTI MOVE TO APPROVE AND SIGN THE AGREEMENT BETWEEN THE TOWN OF THE NORTH READING AND THE MASSACHUSETTS INTERLOCK INSURANCE ASSOCIATION, INC. HEALTH BENEFITS TRUST FUND FOR THE DISTRIBUTION OF THE EARLY RETIREE REINSURANCE PROGRAM FUNDS.

SECONDED BY: MR. O'LEARY
VOTED: UNANIMOUS (5-0)

6. PUBLIC HEARING: NEW ENGLAND BEVERAGE, 160 MAIN STREET.: TRANSFER OF PACKAGE STORE/ALL ALCOHOL LICENSE

Mr. Foti read Public Hearing notice New England Beverage.

Attorney Bill Finegold spoke on behalf of New England Beverage and Redemption Corp. Mr. Mauceri asked why a Food Permit hasn't been issued. Mr. Balukonis indicated that there isn't a need for a food permit if only selling packaged food. The Building Department indicated there should be one more Handicapped Parking space and sign. Attorney Bill Finegold indicated the parking space would be designated.

Mr. O'Leary asked Mr. Romano what his experience and future plans to operate this type of establishment.

Mr. Romano stated the goal is to keep everything exactly the same. He handed to the board the official Commitment Letter.

MR. CHAIRMAN, I MR. FOTI MOVE TO APPROVE THE TRANSFER OF THE PACKAGE STORE/ALL ALCOHOL LICENSE FROM NEW ENGLAND BEVERAGE AND REDEMPTION CORP. TO BEVANDE, INC. D/B/A NEW ENGLAND BEVERAGE AND REDEMPTION CORP., 160 MAIN STREET, NORTH READING, MA.

SECONDED BY: MR. O'LEARY
VOTED: UNANIMOUS (5-0)

Hearing closed at 7:45 p.m.

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7. SHOW CAUSE HEARING; AUTOMOTIVE ASSETS, 348 PARK ST., SUITE 204

Mr. O'Leary states he is recusing himself from this agenda item because he has a family member with a Class 2 Automobile License.

Mr. Balukonis states a notice of the hearing was sent on June 20, 2013 by certified mail to Mr. James Payne, who is the proprietor of the business; the notice was not claimed. Mr. Payne was also sent a request in writing on May 28, 2013 to notify the town the status of the lease at the property. That letter was also returned unclaimed by the recipient. These notifications to Mr. Payne are a result of a letter the town received from the attorney representing the landlord at 348 Park Street indicating Mr. Payne and Automotive Assets have defaulted on the lease and their whereabouts are unknown.

Mr. Mauceri asked if the town had a right to terminate the license.
Mr. Balukonis stated terminating the license is within the town's right.

MR. CHAIRMAN, I MR. FOTI MOVE TO REVOKE THE CLASS II LICENSE FOR
AUTOMOTIVE ASSETS, 348 PARK STREET, SUITE 204 EAST, NORTH READING, MA.

SECONDED BY: MR. PRISCO
VOTED: 4-0-1 (MR. O'LEARY ABSTAINED)

12. PUBLIC DISCUSSION: BISHOPS WAY RETAINING WALL

Mr. Delaney asked those there at the meeting who are involved with the Bishops Way Retaining Wall issue to be respectful and orderly.

Neighbors of Bishops Way were present in the audience as well as town departments including Conservation, Board of Health and Building.

The Board of Selectman decided to take action regarding the graffiti on the retaining wall at 6 Bishops Way.

MR. CHAIRMAN, I MR. FOTI MOVE TO HAVE THE TOWN ADMINISTRATOR SEND NOTICE TO THE OWNER OF THE PROPERTY AT 6 BISHOPS WAY TO IMMEDIATELY REMOVE THE OBSCENE GRAFFITI FROM THE WALL WITH IN 24 HOURS OF RECEIPT OF THE NOTICE. IF THE REMOVAL IS NOT COMPLETE WITH IN 24 HOURS THE TOWN WILL ORDER THE OWNER PAY THE MAXIMUM FINE POSSIBLE PER DAY. AND/OR THE TOWN WILL CONTRACT A GRAFFITI REMOVAL COMPANY TO HAVE THE GRAFFITI REMOVED COST TO BE PAID BY THE PROPERTY OWNER AT 6 BISHOPS WAY.

SECONDED BY: MR. O'LEARY
VOTED: UNANIMOUS (5-0)

Mr. Delaney opens up the discussion to the audience.

Many residents were at the meeting asking questions and making statements.

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Mrs. Rinaldi, 7 Bishops Way – Read a written statement regarding the vandalism to the retaining wall.

Mr. Rinaldi, 7 Bishops Way – discussed the size of the wall, how the wall could potential bring more vandalism into the neighborhood.

Mr. Prisco – discussed the graffiti. Stating the town and the people in it are better than this. He appreciated the opportunity the Building Inspector and the Health Agent have given to the neighborhood. Would like to know the option the neighborhood has to get back on track.

Stephanie Keefer, Attorney representing a number of the abutters to 6 Bishops Way spoke. She indicated that some of the conditions for developing the property may not have been followed correctly, saying she will submit an enforcement/interpretation in accordance with the Town's zoning bylaws as well as Ch40a section 7. Within the current zoning bylaw states fences or wall that is over 7 feet must comply with a setback requirement which locally is 25 feet from the side yard. The neighbors would like is some support from the Board of Selectman that the owner should take a look at the wall and see if any changes can be made.

Mrs. Main, 8 Bishops Way- wanted to understand why Mr. Fair, BOH Agent, didn't inform the neighbors the developments after he said he would.

Mr. Delaney asked Mr. Fair to explain to the community what the owner needed to do once his original design failed.

Mr. Fair, Board of Health Agent, - had the engineer redesign the plan and it was submitted to BOH a month later in June. When the plan was received before he reviewed it called Mrs. Rinaldi and told her he received the revised plan and she could come in and look at it and could take a copy of the plan and share it with her neighbors, and she did come and got a copy. A week later and after reviewing the plan Mr. Fair determined it complied with all the applicable regulations for Board of Health and the Sanitary Codes. He called the builder and the excavator and told them they could proceed with the installation.

Mr. Delaney asked Mr. Fair if he had any discussions with the Town Administrator regarding the approval of the new design and the opportunity to work with the owner to get a compromise on the esthetics of the retaining wall.

Mr. Fair did not.

Mr. Delaney explained to Mr. Fair of the lost opportunity to speak to the owner about the esthetics of the retaining wall by involving the Town Administrator after the second plan was submitted and approved.

Mr. Fair contacted the builder and told him that the Mains were concerned that they relayed to him that they were promised a wall that looked like the wall on Old Coach Rd. He told the builder that he would like to facilitate a meeting with him and the Mains to discuss their concerns and see what can be done. The builder didn't want to meet with any of the neighbors. The builder indicated he will plant Ivy at the base of the wall and Juniper along the top of the wall.

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Mr. Prisco spoke to Mr. Fair and explained to him what he said he was going to do from the May 6, 2013 meeting minutes. Then asked him for an explanation of where the breakdown occurred and why.

Mr. Fair- Claimed he had no other choice then to do what he did, he has to do what the law requires him to do.

Mr. Delaney reminds Mr. Fair that he should have contacted Mr. Balukonis prior to signing the approval.

Mr. Prisco asked Mr. Fair if he could answer any of the questions brought up by Mrs. Keefer.

Mr. Delaney asked Mr. Fair if he had the opportunity to review a memo submitted to the board from counsel for the abutters, and asked if he could address the issues that are raised in that memorandum that pertain to Board of Health.

Mr. Fair responded to the issues listed in the memorandum in writing.

Mr. Hunt, Chairman of the North Reading Board of Health, explained to the board the issues they want to discuss are very technical issues interpretations of Massachusetts DEP guidelines. He believes this is not the forum to discuss those issues/responses point by point. Recommends having a forum to discuss the interpretation of the DEP Regulations.

Mr. Prisco asked if Mr. Hunt would recommend stopping the project until the forum could take place.

Mr. Hunt suggests speaking to the builder and the developer and for some further concessions.

Mr. O'Leary agrees with Mr. Hunt's suggestion and asked that it be done in a timely manner.

Mr. Mauceri suggests having all town departments who is involved in the project be in attendance at the meeting.

Mr. Delaney suggests having the meeting on July 11, 2013.

Mr. Balukonis would like to contact the builder and developer and update him on the issues.

Mr. Delaney would like a formal meeting set on July 15, 2013.

Mr. O'Leary - the aesthetics of the retaining wall the compliance with the regulations and Conservation, Mr. Fair and Mr. DeCola will review steps taken up to now are in compliance with what they've been issued.

Mr. Weiss, member of the Conservation Commission -correct the record on the misinterpretation of the attorney on the Conservation's Order of Conditions. The line of trees along the property line were never expected to go next to the wall, the neighbor on that side of the property line wanted a screen to hide the house the trees were going to go from the end of the wall and down to

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property line to hide the house. A vegetative buffer has nothing to do with the retaining wall; restore the buffer area/no disturb zone which is 12 feet from the wetlands to replant that area because it's been disturbed over the years.

Mr. O'Leary explains the Board of Selectman want to make certain that the owner/builder/developer has complied with Conservation's conditions.

Mr. Weiss - a Certificate of Compliance when the developer completes the project submits an as bill plan and at that time we look to see if he complied with the order of conditions. Up until that time we are not involved in the project

Mr. O'Leary asked Conservation if they wouldn't mind taking a look at the project sooner. To have more knowledge when working with the neighbors and the Developer/Builder.

Mr. Weiss agreed to be part of the meeting.

Mr. Foti asked if the issue was the esthetics of the retaining wall or is the height an issue too.

Mrs. McRae, 44 Kings Row. Suggested a graduated slope would have been more realistic and safe.

Mr. Foti and the Building inspect is the original plans call for a sloped wall, asked the steps of how the wall was approved.

Mr. DeCola explained that once the certified engineer submits a stamps approved plan for the construction of the retaining wall the construction of the wall is approve and the Building Department would look at the wall because they are not engineers.

Mr. Mauceri - there are laws relating to septic and there are laws relating to buildings and structures which he believes have been followed. Because of non-communication, the leverage we had is now gone.

Mrs. Mc Rae – one condition with the development when it was being built is the slope between house couldn't change. Now with the wall it has changed.

Mr. Delaney to Mr. DeCola, is that engineered.

Mr. DeCola – That information is held by Community Planning.

Mr. Prisco asked Mr. DeCola the height of the wall

Mr. DeCola explained he measure it at 7ft on July 1, 2013.

Mr. Hunt, Chairman, Board of Health, when the Board of Health meets again this summer we will propose a local board of health regulations. That the construction of any wall needed as part of a septic system design for new development be given the opportunity for an abutters review.

Mr. O'Leary would like to have the builder and the developer attend the meeting with the Town Administrator on the July 15, 2013.

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Mrs. Main asked if there could be a representative from the neighborhood present at that meeting.

The Board declined the request for a neighborhood representative.

Mr. O’Leary asked Mr. Fair if the topography changed after finding the bedrock.

Mr. Fair said it did not.

Mr. Fair the finish grade in the grading scheme was stated is the same on the revised plan as it was on the originally approved plan. The change in the design was the type of soil absorption system being employed in its location and geometry. In addition to that there has been a pump chamber and a pump added to the design to pump the sewer to the soil absorption system.

Mr. Gallant the height of the wall is not acceptable, it should be tiered. We would like to work with the board to prevent this in the future.

Mrs. Main would like to confirm whether or not there has to be a fence on top of the wall.

Mrs. Rinaldi thanked all of her neighbors on Kings Row and Castle.

13. OLD AND NEW BUSINESS

Mr. Prisco

- Congratulate Mr. Foti of his appointment to the MWRA
- When are we renewing Legal Counsel Contract? (TA will have the quotes for the Board at an upcoming meeting)
- Extended condolences and gratitude to the 19 Fallen Firefighters who lost their lives in the Yarnell Hill Fire in Arizona and to their families.
- Wish Happy and Safe Fourth of July.

Mr. O’Leary

- Extended condolences and gratitude to the 19 Fallen Firefighters who lost their lives in the Yarnell Hill Fire in Arizona and to their families.
- Encouraged people to go to the July 4th celebration
- Congratulations to Carl Nelson on his retirement
- Announced his mother was back home and doing well.

Mr. Foti

- Congratulation School Committee for extending the Superintendence Contract.
- Wish Carl Nelson well on his retirement.
- Congratulate Ryan Fitzgerald for being selected by the Boston Bruins
- Summer concerts start on July 10th through August 14th at Ipswich River Park every Wednesday.

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Mr. Mauceri

- Extended condolences and gratitude to the 19 Fallen Firefighters who lost their lives in the Yarnell Hill Fire in Arizona and to their families.
- Offered assistance to the Town's IT department to debug a Drop Box issue.

Mr. Delaney

- Extended condolences and gratitude to the 19 Fallen Firefighters who lost their lives in the Yarnell Hill Fire in Arizona and to their families.
- Encouraged people to go to the July 4th celebration
- Congratulations to Carl Nelson on his retirement
- Congratulated the entire Fitzgerald family and Ryan Fitzgerald for being selected to play with the Boston Bruins.
- Thanked Mr. Foti getting his head shaved and donating it for a Cancer Benefit

15. ADJOURNMENT

MR. CHAIRMAN, I MR. FOTI MOVE TO ADJOURN.

SECONDED BY:	MR. PRISCO	
VOTED:	MR. O'LEARY	AYE
	MR. FOTI	AYE
	MR. DELANEY	AYE
	MR. PRISCO	AYE
	MR. MAUCERI	AYE

VOTED: UNANIMOUS (5-0)
ADJOURN 9:55 p.m.

DATE

JOSEPH FOTI, CLERK