

December 15, 2014

**BOARD OF SELECTMEN  
MINUTES  
DECEMBER 15, 2014**

Present: Priscilla Gimas, Vice-Chairman  
Mary Dowling  
Craig Moran  
Suzanne Kennedy, Interim Town Administrator

Mary Blanchard was absent.

The Vice-Chairman, P. Gimas, called the meeting to order at 6:00 p.m. following the Pledge of Allegiance.

**Alyssa Rusiecki, Board of Health Agent**

Alyssa Rusiecki, Board of Health Agent, appeared before the Board. She said that the Town of Sturbridge and Sturbridge Recycling Center, under the jurisdiction and administration of the Board of Health, is receiving an award for excellent recycling. The Board may remember that in September, a letter was received from the Department of Environmental Protection indicating that we are receiving a grant of \$3,200 under a new program called the Recycling Dividends Program (RDP) to help with waste reduction and increasing recycling.

A. Rusiecki said that in addition to the grant, the Town will be receiving an award achieving the best recycling rate in the State of Massachusetts under the RDP with a total of 16 points. She noted that this achievement is a testament to efforts of not only the residents of Sturbridge and the staff at the Recycling Center, but also to those who had the forethought to start the Recycling Center (in 1989).

**Contract Amendment for Blue Wave Capital, LLC**

Attorney Rick Holland, Eric Graber-Lopez of Blue Wave Capital and Erin Sweet of Sun Edison appeared before the Board. Blue Wave Capital, LLC requested an amendment to the August 5, 2013 Power Purchase Agreement (PPA) reflecting a change in system size, equipment and expected system output. The initial contract provided for a solar system size of 1,900 kW while the amendment calls for a reduction to 1,100 kW based upon the following reasons:

- Site constraints identified during the project's development –specifically, during permitting and interconnection due diligence –led to a reduction in the system's size.
- Per the impact study with the utility company, the project would not have been viable given the cost to interconnect the project at its original size. Subsequent changes to the system's interconnection approach and design reduced

interconnection costs by more than \$900,000 and created a path to project viability.

C. Moran noted that the Town would not be getting what was initially signed for. He asked whether there was another facility where the Town could purchase the rest of the kilowatts. E. Lopez said that Blue Wave does, but encouraged the Board to focus on bringing this site first. C. Moran questioned whether it would be appropriate to sign this amended agreement, as the Board had previously signed an agreement for a certain number, and now Blue Wave is saying that the Town will get less.

M. Dowling said that the Town should look at purchasing the rest of the kilowatt hours elsewhere. She said that she would not have voted for the agreement, as she wanted ten years with an option to extend for another ten. She said that she would not vote for the amendment.

E. Lopez said that the deal that was signed in 2013 was for what was expected to be by the size of the system. He said that it was in their interest to build the largest facility possible to supply the Town. He noted that the site had turned out to be 85% wetlands, while in the initial site assessment it was determined to be 75% wetlands, so there was a problem with the physical constraints of the site.

Attorney Rick Holland said that it is typical in these documents for the system to be designed in a way to be adjusted upward or downward, allowing for increases and decreases, depending upon what happens during permitting and other processes.

E. Lopez said that the way that the contract was negotiated was at the Town's preference to select how the Town wanted to realize the benefits of the facility. He said that since the land was limited within the Town that is also the customer, it was a negotiation where the Town preferred to receive savings over revenues, and was the result of an open conversation with the Town and Town Counsel.

C. Moran expressed concern about the benefits for the Town; if the Town loses 40% of the credits, he asked what the new value was going to be. E. Lopez said that the Town is buying credits at a little over half, which is a considerable savings to the Town. R. Holland assured the Board that this is a typical amendment for facility changes.

P. Gimás said that going back two years, it was stated that the goal was 1.9, but it was not etched in stone. R. Holland said that he did not see any legal issues, and recommended that the Town proceed and sign the amendment.

M. Dowling said that the solar facility size is somewhat fluid, and asked whether the 1100 kilowatts was also a fluid number. She noted that the language says "estimated." E. Lopez said that the numbers are the final numbers on the size of the system. The interconnection system agreement has been executed. Once the feasibility study is finished, the estimated part is the output.

M. Dowling suggested defining the language as to what “estimate” means, and noted that the language isn’t consistent. She suggested narrowing the language from the Town’s perspective. E. Lopez said that the amount estimated was 25% of the land; there was a 40% reduction in the developable area, as there were ten more acres of wetlands than anticipated. When the interconnection analysis came back, it was 3.8 DC. It was a system reduction which was overcome by the reduction in the developable area. He said that this is the final step in the process.

M. Dowling said that her recollection of the meeting was different. When the question was asked “Would the output go down?” Blue Wave said it would honor the original contract terms. E. Lopez said that it had been discussed with the Planning Board, the Conservation Commission and the previous Town Administrator.

Erin Sweet said that all of the documents need to align, and she will make sure that they do. She said that this amendment is critical to the deal moving forward.

S. Kennedy said that in keeping with Attorney Holland’s comments, she would encourage the Board to sign the amendment.

David Barnicle, 7 Ladd Road, and Chairman of the Conservation Commission, said that all of the wetlands had been delineated at the site, and no one had brought up the fact that there were more wetlands. He said that having someone come in after they have accepted and paid for an independent delineator was amazing to him. E. Lopez said that there were culverts that needed to be cleared.

P. Gimás felt that the Board needed more information, and suggested that it be rescheduled, possibly in a work session with Blue Wave after the holidays. Attorney Holland agreed.

E. Lopez noted that they went through a fairly complex process. He said that they would bring the originally approved plans and the second plans for review. P. Gimás requested that he provide them to the Board in advance of the meeting.

### **Public Hearing: Cable TV License Renewal Proceeding**

M. Dowling read the legal ad into the record. Attorney Bill August, Don Fairbrother and John Clancey of the Cable Advisory Committee, and Heidi Vandenbrook of Charter Communications appeared before the Board.

The Board held a public hearing for a cable license renewal ascertainment concerning the Sturbridge Charter cable television license renewal process and the Charter cable license due to expire on April 26, 2015. This proceeding was held pursuant to federal law 47 USC 546 to ascertain cable-related needs and interests as part of the license renewal process.

Under Federal law, the decision to deny or renew Charter's license resides with the Board of Selectmen and, as such, the Board serves as the Franchising/Issuing Authority.

John Clancy, Cable Advisory Committee Chairman, provided a presentation for the Board, which provided for the long awaited survey results.

J. Clancy said that the survey results could be posted on the Town's website and cable access channel. P. Gimás requested that they be published in the newspaper and copies provided at Town Hall and the Library. J. Clancy said that they will be made available in as many places as possible. M. Dowling expressed appreciation for the survey.

Don Fairbrother provided an operational needs analysis presentation. He noted that this will be funded by the cable grant, not tax money. Proposed capital improvements include the creation of a studio capability in an existing town facility.

C. Moran said that a lot of seniors in town are bedridden and living on a fixed income, and asked what Charter would do for them. Heidi Vandebrook said that Charter offers a 10% discount for seniors on the basic package, along with box offers.

M. Dowling said that she was pleased with the changes, and to see free internet connections at the Library and the Senior Center. She asked for a breakdown of the TV results page.

C. Moran asked what could be done to rectify the situation if someone has a 911 emergency during a power outage, and Charter phone service is out. P. Gimás suggested working with the Council on Aging to provide them with a cell phone at no cost. Heidi Vandebrook noted that there is a four-hour battery backup.

**MOTION: To close the public hearing, by M. Dowling.**

**2<sup>nd</sup>: C. Moran**

**Vote: Three in favor; M. Blanchard was absent.**

### **Engineering Support for Sturbridge Cable Television to Upgrade System Capabilities**

Mr. Donald Fairbrother, working in collaboration with the Cable Advisory Committee, developed the enclosed Scope of Work to identify system improvements that will enhance public access and government channels' capabilities aimed at improving system reliability and to provide for increased "live" origination points throughout the town and broader program availability for cable subscribers.

S. Kennedy said that she and Don Fairbrother have been working together on the proposed contract, and the Cable Advisory Committee has worked out a scope of work

regarding new equipment, upgrades, etc., and a new studio. The total cost is \$2,500. Town Counsel had recommended entering into a contract.

**MOTION: That the Board approve the contract by and between Robert Mahlert and the Town of Sturbridge; and further, authorize the Chairman to sign the contract on behalf of the Board of Selectmen, by M. Dowling.**  
**2<sup>nd</sup>: C. Moran**  
**Vote: Three in favor; M. Blanchard was absent.**

### **Public Hearing for Logging Permit for 7 Ladd Road**

C. Moran read the legal ad into the record. Craig Masterman appeared before the Board. He requested approval of a logging permit for 25 acres of land located at 7 Ladd Road owned by David and Patricia Barnicle. All filings were submitted:

- Forest Cutting Plan
- Forest Cutting Certificate
- Sketch Plan of Site with location of trees
- Abutters List

The Conservation Commission reviewed the plan and deemed that the timber harvest, as currently proposed for the plan, will not have an impact on the wetland resource areas and recommended approval of the cutting plan.

DPW Director Greg Morse reviewed the proposed cutting plan and recommended a \$5,000 road maintenance bond be submitted by the logger before commencement of work.

S. Kennedy submitted to the Board an excerpt from the DCR website entitled "Forest Cutting Practices Act." There was a highlighted section, "The purpose of the notice of intent to abutters is to provide an opportunity for landowners to determine if boundary lines have been accurately marked; it is not an opportunity for comment on the operation itself."

S. Kennedy had discussed the application with Mary Blanchard, who explained that the practice has been that legal ads are published in the newspaper 10 days in advance of the hearing. The legal ad for this public hearing was published on December 12<sup>th</sup>. S. Kennedy contacted Town Counsel, who indicated that the 10 day requirement is not in the state statute. There is no relation between the Town's practice and state statute. She noted that there was only a 24 hour public notice. Town Counsel advised S. Kennedy that if the Board so chose, it could open the hearing and then continue it to another time. It was the consensus of the Board to close the public hearing, then reschedule it for January 20, 2015 and have the applicant provide adequate notice by publishing a legal ad at least 10 days before the hearing date.

**MOTION: To close the public hearing, by M. Dowling.**  
**2<sup>nd</sup>: C. Moran**  
**Vote: Three in favor; M. Blanchard was absent.**

**Request for Water Bill Abatement for the Period Covering 7/1/14 – 9/30/14 for Susan B. Doscher**

Susan Doscher and Barbara Barry, Finance Director, appeared before the Board. This matter had initially been brought to the attention of Barbara Barry. After reviewing the data log and consumption data, Ms. Barry rejected the request for abatement of the water bills, in knowing that the invoice accurately reflected consumption.

As required by the Water Rules, Regulations and Fees, the Finance Director, DPW Director and Town Administrator met on December 1, 2014, reviewed the consumption data together with the appeal request, and unanimously voted to reject the appeal.

As S. Doscher's letter indicated, the appellant installed a new lawn to fill in a barren area resulting from tornado damage. However, the data log generated from the meter affixed to the appellant's home unequivocally verifies that her invoice is consistent with water utilization.

B. Barry said that based upon the regulations, they don't have the authority to grant relief on the water bills, as the water had gone through the meter.

P. Gimas suggested the possibility of applying for FEMA and MEMA money, as S. Doscher might be eligible for reimbursement. G. Morse, DPW Director, said that some tree work would be eligible. S. Doscher said that she had applied to FEMA and was denied any funding. She questioned the accuracy of the meter. Greg Morse said that the meter reads something every 15 minutes, and noted that the new system has a better control environment.

M. Dowling did not see anything to indicate that the Town was at fault. She said that if S. Doscher is not living in the house, the water should be turned off. She suggested that a reasonable payment plan be set up for S. Doscher to abide by.

**MOTION: That the Board reject the appeal of Ms. Doscher for an abatement of her water bill based on the water utilization outlined in the data and consumption logs presented tonight, by M. Dowling.**  
**2<sup>nd</sup>: C. Moran:**  
**Vote: Three in favor; M. Blanchard was absent.**

**MOTION: That the resident work with the Finance Director to create a reasonable payment plan consistent with S. Doscher's ability to pay the bills in question, by M. Dowling.**  
**2<sup>nd</sup>: C. Moran**  
**Vote: Three in favor; M. Blanchard was absent.**

G. Morse said that he will have the meter checked to see if it is working correctly. A new meter will cost \$280.

**MOTION:** That the Water Department be instructed to remove S. Doscher's meter at her request to determine if the meter is accurately reflecting water usage; if the meter is inaccurate, the Town will pick up the cost of the testing, by C. Moran.

2<sup>nd</sup>: M. Dowling

Vote: Three in favor; M. Blanchard was absent.

### **Request to Appoint On-Call Staff – Fire Department**

S. Kennedy informed the Board that Chief Zinther would like to withdraw this request at this time, and return with a comprehensive plan.

### **Change in Location for Billycars, LLC from 29 Main Street to 2 Main Street**

William Cassim appeared before the Board to request a change in location from 29 Main Street as a result of this space having been recently sold. 2 Main Street, currently licensed as a Class 11/used car operation, is owned by his brother, Eric Cassim. When this matter was reviewed 11/17/2014, William Cassim represented that he intended to rent space for the purpose of reconditioning automobiles.

S. Kennedy said that the latest communication was that he wants to transfer his Class 2 license from 29 Main Street to 2 Main Street; however, as indicated in Town Counsel's 12/11/2014 email, the 29 Main Street license cannot be transferred, since this business no longer exists at this location. William Cassim may, if he wishes, apply for a new license at 2 Main Street. Finally, Town Counsel indicated that Class 2 licenses require a \$ 25,000 bond.

Eric Cassim's Class 2 license at 2 Main Street provides for a maximum of twenty automobiles to be stored on the premises. Should William Cassim apply for and be granted a license at 2 Main Street, the total number of automobiles at 2 Main Street cannot exceed twenty, no matter how many licenses are granted. William Cassim said that he will not add any more cars at that location. He said that he is buying and selling cars at auction and then selling them to dealers.

S. Kennedy noted that there are other issues with 2 Main Street and 33 Main Street.

C. Moran suggested that William Cassim get a license in Wilmington. W. Cassim said that they don't allow them. S. Kennedy said that there is no such thing as a "non-display license." She said that she had heard that restoration of vehicles would be done at the site. Town Counsel had indicated that a Class 2 license would not be needed.

W. Cassim said that he would be repairing cars, and to sell them a Class 2 license is needed. He added that a lot of the cars he will be selling will not be kept at the property.

M. Dowling said that there is nothing illegal about having two licenses at one location. She said that W. Cassim needs to apply for a new license. She suggested that the Board require the existing license have a limit of 20 cars at the site, and word it so that one business would have 15 cars, and the other have 5 cars.

**MOTION: That the 29 Main Street transfer not be granted, pursuant to advice from Town Counsel, by M. Dowling.**

**2<sup>nd</sup>: C. Moran**

**Vote: Three in favor; M. Blanchard was absent.**

S. Kennedy said that it is now a mandatory condition that a surety bond be provided in the amount of \$25,000 by all Class 2 licensees. She asked W. Cassim for further clarification of what his intentions are.

**MOTION: That the Cassim brothers be instructed to provide a \$25,000 bond for both 2 Main Street and 33 Main Street consistent with state law, and be allowed one month to obtain the bonds, by M. Dowling.**

**2<sup>nd</sup>: C. Moran**

**Vote: Three in favor; M. Blanchard was absent.**

### **The Winebuyer's Outlet, LLC Change of Hours on Liquor License**

The Winebuyer's Outlet, LLC requested a change of hours on Sundays **FROM** Noon to 9:00 p.m. **TO** 10:00 a.m. to 5:00 p.m. S. Kennedy noted that formal ABCC approval of this request is not necessary, but the Board is required, as the Local Licensing Authority, to sign form 43.

**MOTION: That the Board approve the requested change of hours on Sundays for the Winebuyer's Outlet, LLC FROM Noon – 9:00 p.m. TO 10:00 a.m. – 5:00 p.m., by M. Dowling.**

**2<sup>nd</sup>: C. Moran**

**Vote: Two in favor; M. Blanchard was absent; P. Gimás abstained for religious reasons.**

### **Department Head Reports: Nelson Burlingame, Building Inspector; Greg Morse, DPW Director; Lynn Girouard, Recreation Director**

Nelson Burlingame, Building Inspector, reviewed his report with the Board. He said that he was in the process of conducting 110 inspections. He said that some of the motels were not classified correctly, and he is working on correcting that.



N. Burlingame said that he had noticed that the Cassims send cars back and forth between their properties, which should be looked into.

N. Burlingame said that Northern Construction was awarded the bid for the Joshua Hyde Library skylight.

Regarding 33 Main Street, S. Kennedy said that N. Burlingame has taken the owner to court, and the court upheld N. Burlingame's findings. The fees have not been paid yet. Real estate and personal property taxes are owned the Town for 2, 29 and 33 Main Street. She suggested sending out a notice that there might be a hearing on 33 Main Street if taxes and fees are not paid. She will work with Town Counsel on getting the right information out.

Greg Morse, DPW Director, reviewed his report with the Board. C. Moran asked about his staff level. G. Morse said that he had conducted some interviews, but there had been a few issues, so the vacancy will be re-advertised.

Lynne Girouard, Recreation Director, reviewed her report with the Board. She said that the Tree Lighting Ceremony had been held on the Town Common in November, and thanked the DPW Director, Police and Fire Departments for their assistance. She announced that an auction will be held in January for the skate park ramp repair.

L. Girouard informed the Board that policy changes for the Town Common usage and the Recreation Area will be brought before the Board when they are completed.

### **Contract for Landfill & Recycling Center Inspections and Reports**

Alyssa Rusiecki, Board of Health Agent, appeared before the Board. She explained that the only thing not in the contract would be a condition that the appropriate certificate of liability insurance be provided to the Town, naming the Town as an additional insured. She thanked S. Kennedy for accommodating this request and for providing training on procurement practices. She noted that the inspection requirements for landfills have changed. Inspections are required by a third party six times per year.

**MOTION: To approve the contract as presented and further to authorize the Chair to sign the contract on behalf of the Board, between the Town of Sturbridge and the vendor; and to authorize the Chair to sign the contract on condition that the certificate of liability insurance be submitted, naming the Town as an additional insured prior to commencement of work, by M. Dowling.**

**2<sup>nd</sup>: C. Moran**

**Vote: Three in favor.**

### **Town Administrator's Update**

December 15, 2014

Regarding the Riverlands matter, S. Kennedy said that the document had been issued and recorded at the Worcester Registry of Deeds. This area can now be used for passive recreation (fishing, hunting, etc.). P. Gimias suggested that it be an agenda item for discussion.

**Old Business**

There was no old business.

**New Business**

M. Dowling said that there are ongoing emails expressing concern about the proposed drag strip in Charlton. Residents who will be impacted by it may come forward to voice their concerns with the Board of Selectmen.

**MOTION: To adjourn, by M. Dowling.**

**2<sup>nd</sup>: C. Moran**

**Vote: Three in favor; M. Blanchard was absent.**

The meeting was adjourned at 9:15 p.m.

Respectfully submitted,

Judy Knowles

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BOS Clerk

Date