

March 9, 2015

**BOARD OF SELECTMEN
MINUTES
MARCH 9, 2015**

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

The Chairman called the meeting to order at 6:30 p.m. following the Pledge of Allegiance.

Minutes

MOTION: To approve the minutes of November 4, 2013 as amended, by P. Gimas.

2nd: C. Moran

Vote: Three in favor; C. Moran abstained.

MOTION: To approve the minutes of January 20, 2015 as written, by P. Gimas.

2nd: C. Moran

Vote: All in favor.

MOTION: To approve the minutes of February 11, 2015 as written, by P. Gimas.

2nd: M. Dowling

Vote: Three in favor; C. Moran abstained.

MOTION: To approve the minutes of February 17, 2015 as amended, by P. Gimas.

2nd: C. Moran

Vote: All in favor.

Vote to Petition the General Court for a Special Act to Issue One Additional License for the Sale of Wine and Malt Alcoholic Beverages not to be Drunk on the Premises At Ocean State Job Lot, 178 Main Street.

S. Kennedy informed the Board that she had consulted Town Counsel as to how to proceed. After the Board votes to approve the vote of the Town Meeting, she will submit it to Rep. Todd Smola and Senator Ann Gobi.

MOTION: That the Board Vote to Petition the General Court for a Special Act to Issue One Additional License for the Sale of Wine and Malt Alcoholic Beverages not to be drunk on the Premises at Ocean State Job Lot, 178 Main Street, by P. Gimas.

2nd: C. Moran

Vote: Three in favor; M. Dowling opposed.

Contract Amendment for Blue Wave Capital, LLC

Beth Greenblatt, Mark Sylvia, Eric Graber-Lopez and Town Counsel Rick Holland 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 request for an amendment was predicated on the following reasons:

- The amendment makes an adjustment to the system size in the PPA in order to reflect the actual system capacity that will be installed rather than the estimated system size at the time the agreement was executed.
- The amendment also shifts the Town's purchasing of credits from 100% of the output of one of the systems to be constructed to 50% of each of the two equally sized systems to be constructed on MassDOT land on Hare Road.

Eric Graber-Lopez said that modifications to the agreement include a small change in the description of the site. C. Moran asked about the date of the extension. E. Graber-Lopez said that the deadline would have been February 2015; it is being extended to October 15, 2015. He noted that the Army Corps of Engineers has requirements for working at the site, and that window is during the summer. It has to do with working near waterways. They have updated criteria recently: July 1 – September 30th in which work can be performed in those areas, although they hope to have it completed sooner than that. C. Moran asked if they were anticipating any delays. E. Graber-Lopez said that they need to have a PPA that matches what is in the lease, then they will pull the necessary permits and get started.

M. Dowling asked about the status of the pilot. E. Graber-Lopez said that it is a formula based agreement. S. Kennedy said that the pilot was signed.

MOTION: That the Board approve the amended PPA agreement by and between the Town of Sturbridge and Blue Wave Capital, LLC and further, authorize the Chairman to sign the amended agreement on behalf of the Board of Selectmen, by P. Gimás.

2nd: C. Moran

Vote: Three in favor; M. Dowling opposed.

Appointment of Full-time Dispatcher: Scott E. Belanger

Chief Ford and Scott Belanger appeared before the Board. Chief Ford completed the recruitment process to fill a vacant full-time dispatch position, and recommended the appointment of part-time dispatcher Scott Belanger. Mr. Belanger has been with the Town since November 2009 and he is also a call firefighter EMT with the Sturbridge Fire Department. Chief Ford reported an excellent work history with Mr. Belanger, who was a 1989 graduate of Tantasqua Regional High School, and ready to begin immediately. A copy of Mr. Belanger's resume was submitted to the Board.

S. Kennedy noted that the conflict of interest law generally prohibits a municipal employee from having a financial interest in more than one municipal job. She reviewed this matter with Town Counsel, and in his opinion "...this individual may serve as a call firefighter and full-time dispatcher, and be compensated for both positions, provided he qualifies for a §20(f) exemption as detailed below. Section 20(f) provides that §20 shall not apply..."

(f) to a municipal employee if the contract is for personal services in a part time, call or volunteer capacity with the police, fire, rescue or ambulance department of a fire district, town or any city with a population of less than thirty-five thousand inhabitants; provided, however, that the head of the contracting agency makes and files with the clerk of the city, district or town a written certification that no employee of said agency is available to perform such services as part of his regular duties, and the city council, board of selectmen, board of aldermen or district prudential committee approve the exemption of his interest from this section. (emphasis added)

This exemption is designed to make it easier for compensated municipal employees to also serve as call firefighters and similar part-time or intermittent public safety positions.

MOTION: That the Board of Selectmen ratify the Town Administrator's appointment of Scott E. Belanger at an hourly rate hourly rate of \$22.33 per the collective bargaining agreement and further, instruct Chief Ford to file with the Town Clerk a written certification that the employee is available to perform, and further, that the Board of Selectmen approve MGL §20(f) of the Conflict of Interest Law, by M. Dowling.

2nd: P. Gimás

Vote: All in favor.

Cable Renewal Process Agreement Amendment

S. Kennedy informed the Board that the Cable Advisory Committee (CAC) and Town Administrator recommended approval of the amended agreement in order to bring contract negotiations to a conclusion by April 15, 2015.

P. Gimas said that one of the biggest issues was Charter's lack of good service to their customers, and noted that the Board had been assured that they were working on this.

C. Moran stressed the importance of offering a special rate for seniors. S. Kennedy said that there is a standard provision for seniors that has always been available.

P. Gimas said that this contract is with Charter; when Comcast assumes them, they will assume this contract. She said that seniors get 10% off this service. She noted that National Grid gives a percentage off to seniors which is income based, and wanted to know why Charter doesn't do that. She said that if there is a law that prevents them from doing that, she would like to see it in writing.

MOTION: That the Board approve and authorize the Chairman to execute the contract by and between the Town of Sturbridge and Epstein and August, LLP to provide cable renewal negotiation services in the amount not to exceed \$5,500, by P. Gimas.

2nd: C. Moran

Vote: All in favor.

Public Hearing: Alcohol Violation Hearings: Enrico's Brick Oven Pizzeria and Sturbridge Gas

M. Dowling read the legal ad into the record. Police Chief Thomas Ford and Sgt. Larry Bateman appeared before the Board.

Chief Ford explained that as part of a grant funded underage enforcement and compliance program, the Sturbridge Police Department conducted thirty three (33) compliance checks of licensee premises on July 31, 2014 and August 9, 2014, of which twenty nine (29) passed said checks. He noted that **all licensees were duly notified of the impending checks in June 2014**. The following establishments **DID** not pass the checks:

- Enrico's Brick Oven Pizzeria
- Sturbridge Gas

Clerks at each of these licensed establishments were criminally charged for selling alcohol to a minor. Copies of the relevant police reports together with Town's alcohol policy were submitted to the Board.

These allegations, if proven, constitute violations of MGLc.138, §34 (sale of alcohol to a minor) and 204CMR 2.05(2) (permitting illegalities or disorders on the licensed premises) and improper management. Therefore, in keeping with these statutes, the Board must conduct a public hearing to determine if these violations in fact occurred.

S. Kennedy informed the Board that if these allegations are proven, the Board may modify, suspend or revoke the license of each establishment. Town records indicate that neither establishment has previously violated MGLc.138, §34 (sale of alcohol to a minor) and 204CMR 2.05(2). However, if as a result of the hearings the findings indicate that violations occurred, both establishments may be cited as first time offenders.

Chief Ford said that on August 19, 2014 Sgt. Bateman and Officer Hillary DaDalt were assigned to perform the checks, along with an underage operative. At Sturbridge Gas, the minor was not asked for an ID, and was served alcohol. The Assistant Manager at Sturbridge Gas explained that the employee who had served the minor was suspended for a couple of days. He went to Dudley District Court, where it was dismissed. Chief Ford said that he would find out what had happened at the hearing. M. Dowling said that the reason for the dismissal is important to the Board.

MOTION: That the Board of Selectmen shall suspend the liquor license for Sturbridge Gas for one day, consistent with the Town's alcohol policy; the date of suspension to be mutually agreed upon between Police Chief Thomas Ford and Sturbridge Gas. Further, on the date of that suspension, you shall post a notice on the all door entrance ways stating "No alcohol sales allowed per order of the Board of Selectmen, license suspended due to sale of alcohol to a minor," by P. Gimas.

2nd: C. Moran

Vote: Three in favor; M. Dowling abstained.

MOTION: To direct the Police Chief to produce any documentation in connection with the court's dismissal of the case and the reason why, within two weeks, by M. Dowling.

2nd: P. Gimas

Vote: All in favor.

M. Blanchard asked Chief Ford to let the Board know which day the suspension will take place, as well as the two previous suspensions voted by the Board.

Enrico's Brick Oven Pizzeria

Elizabeth Alicea, owner of Enrico's Brick Oven Pizzeria, appeared before the Board. Chief Ford reviewed the alcohol compliance check conducted at Enrico's with the Board. Their underage operative was served a Bud Light by an Enrico's employee.

Elizabeth Alicea informed the Board that the employee had been terminated. She had posted signs indicating that they card everybody, and had taken other responsible

measures. She noted that the staff at Enrico's had even conducted their own "sting" exercise to train staff to adhere to the law.

M. Dowling expressed concern about what had occurred regarding the disposition of the court. P. Gimás noted that both businesses admitted that they did not follow procedure, and violated the alcohol policy, so they should be held accountable.

MOTION: That the Board of Selectmen shall suspend the liquor license for one day, consistent with the Town's alcohol policy; the date of suspension to be mutually agreed upon between Police Chief Thomas Ford and the Enrico's Brick Oven Pizzeria. Further, on the date of that suspension, you shall post a notice on all door entrance ways stating "No alcohol sales allowed per order of the Board of Selectmen, license suspended due to sale of alcohol to a minor," by P. Gimás.

2nd: C. Moran

Vote: Three in favor; M. Dowling opposed.

MOTION: That any information regarding the disposition of the court proceeding with respect to the violation at Enrico's Brick Oven Pizzeria be given to the Police Department, and that information be forwarded to the Board in a timely manner, by M. Dowling.

2nd: P. Gimás

Vote: Three in favor; C. Moran abstained.

Request for Live Entertainment License for-Enrico's Brick Oven Pizzeria

Elizabeth Alicea, owner of Enrico's Brick Oven Pizzeria, appeared before the Board.

S. Kennedy said that she had spoken with Town Counsel about this, and was informed that there should be no reason to object to the issuance of a Live Entertainment License, unless there is a public safety concern.

Elizabeth Alicea said that she would like to offer Irish music on St. Patrick's Day, and on other days to have '50s and '60s music from 9:00 p.m. to 11:45 p.m.

MOTION: To grant a Live Entertainment license to Enrico's Brick Oven Pizzeria, by C. Moran.

2nd: P. Gimás

Vote: All in favor.

Pledge of License Publick House

Attorney Christina Mihos appeared before the Board.

S. Kennedy noted that any holder of a license may pledge (1) the license (2) corporate stock (3) alcoholic beverages which he/she is authorized to sell, in order to secure a loan or debt. Any pledge of license must be approved by the local licensing authority as well as the ABCC. Accordingly, the Publick House applied for a construction loan from DCU Bank to renovate six existing rooms and construct 14 additional rooms at the location. In conjunction with the loan, the Bank has required that the applicant pledge its interest in the liquor license as collateral. The applicant requested the Board's approval to pledge their liquor license to DCU as required by the rules and regulations applicable to the pledging of liquor licenses.

S. Kennedy informed the Board that review of the material indicates all required documents to act upon this request have been submitted and in order.

Attorney Mihos stated that the Publick House plans to construct 14 additional rooms, and are pledging their license to DCU Bank.

MOTION: That the Board approve the Pledge of License for the Publick House to pledge their liquor license to DCU Bank as required by the rules and regulations applicable to the pledging of liquor licenses, by P. Gimas.

2nd: C. Moran

Vote: All in favor.

Proposed Zoning Amendment

The Planning Board has proposed a zoning amendment for inclusion on the Annual Town Meeting Warrant and is prepared to go forward as petitioner for the proposed minor revisions to the Solar Bylaw, Chapter 29. In keeping with MGL 40 §5 the petitioner has submitted the proposed zoning amendment to the Board to begin the adoption process. A copy of the proposed zoning amendment is enclosed in your agenda package.

MOTION: That the Board of Selectmen refer the proposed zoning bylaw amendments outlined under correspondence of the Planning Board dated February 25, 2015, to the Planning Board for hearing and report pursuant to MGL c. 40A, sec. 5, by P. Gimas.

2nd: C. Moran

Vote: All in favor.

Injured on Duty (IOD) Claim for a Police Officer

MOTION: That the Board approve the IOD Claim for Officer David Fortier as presented, by P. Gimas
2nd: C. Moran
Vote: All in favor.

Injured on Duty (IOD) Claims for Firefighters

MOTION: That the Board approve the IOD Claim for MaryLou Volpe as presented, by P. Gimas.
2nd: C. Moran
Vote: All in favor.

MOTION: That the Board approve the IOD Claim for Brian Towns as presented, by P. Gimas.
2nd: C. Moran
Vote: All in favor.

Request to Fill Building Department Administrative Assistant Vacancy.

S. Kennedy informed the Board that Town Planner Jean Bubon and Building Inspector Nelson Burlingame have completed the recruitment process to fill the recently vacated Building Department Administrative Assistant position and recommended the appointment of Ms. Cindy Forgit to fill this position. Ms. Forgit, currently the Administrative Assistant to the Conservation Department, was selected to fill this position in knowing she possesses the requisite skills and knowledge of the Building Department operations and procedures. A copy of her resume was submitted to the Board.

MOTION: That the Board approve the appointment of Ms. Cindy Forgit as Building Department Administrative Assistant at \$18.47 per hour as recommended by Mr. Burlingame and Ms. Bubon, by P. Gimas.
2nd: M. Dowling.
Vote: All in favor.

Public Hearing Curboy Auto Inc.- Request for Class 2 and Class 3 Licenses

Sergey Privedenyuk and Jerry Clark of CMG Sturbridge appeared before the Board. M. Dowling read the legal ad into the record.

S. Kennedy said that the Town had been recently informed that George W. Curboy's Garage, Inc. located at 71 Mashapaug Road, sold all real estate and personal property

in Sturbridge as of November 2013, and therefore, the corporation would not be renewing any of their former licenses issued by the Town. The Town issued Mr. Curboy both a Used Car Dealer Class 2 License and Motor Vehicle Junk Class 3 License.

The properties have since been purchased by Sergey Privedenyuk, d/b/a Curboy Auto Inc. who, in accordance with MDL Chapter 140, is seeking approval by the Board, of a Used Car Dealer Class License and Motor Vehicle Junk Class 3 License. S. Privedenyuk said that he is not open for business yet. Improvements have been made at the site. He assured the Board that no junk cars will be at the front of the property. He is working with an environmental company to clean up the site.

M. Blanchard said that the licenses issued to George Curboy will be rescinded. C. Moran noted that there had been no maximum limit on cars on the Curboy Class 2 and Class 3 licenses. He asked how many cars will be for sale at the site. S. Privedenyuk said that there will be a dedicated area for parking and for the sale of cars. Trees will be planted to make it environmentally friendly. He said that he has two other properties in Springfield; one is for the strip operation, and one is for parts. He owns new equipment which complies with the new standards. The crushing of vehicles will be done at the Springfield site. Dismantling of vehicles will be done inside on a concrete surface in Sturbridge.

Jerry Clark informed the Board that they have been cleaning up the property in phases. Previous car crushing activities caused issues that have now been cleaned up. He said that it is now a much more regulated industry than in the past. An extensive survey of the subsurface has been conducted, including surrounding wells and new homes.

M. Dowling said that the issuing of the license is contingent upon compliance with any and all of the laws and regulations. C. Moran suggested checking with Town Counsel to see if there is something that should be done regarding the Class 3 license. S. Kennedy said that she would consult with Town Counsel.

M. Blanchard asked whether DEP had conducted an inspection of the site. Jerry Clark said that DEP had recently inspected it, and noted that DEP reviews plans, audits activities and looks at the overall picture.

M. Dowling requested that Town Counsel's guidance be provided with respect to language to be included in the license on how to protect the Town while allowing the business to proceed as planned. She said that the Board needs to know the condition of the land and that information should be provided to the Town Administrator.

S. Kennedy said that they should provide a document so that the Board has an understanding of what is required by DEP.

MOTION: That the Board grant a Class 2 Used Car Dealer Class License to Sergey Privedenyuk, d/b/a Curboy Auto Inc., by P. Gimas.

2nd: M. Blanchard

Vote: All in favor.

MOTION: To continue the public hearing for a Class 3 license to April 21, 2015 at 6:40 p.m., by M. Dowling.

2nd: P. Gimas

Vote: All in favor.

Request for Common Victualler and Live Entertainment Licenses: Concord Brewery Inc. d/b/a RapsCALLion

This item had been deferred from the Board's January 20, 2015 meeting due to the Board's concerns with respect to septic matters. Cedric Daniel of RapsCALLion appeared before the Board.

S. Kennedy informed the Board that Live Entertainment and Common Victualler licenses were requested by Concord Brewery Inc. d/b/a RapsCALLion. This establishment currently has a Farmer Brewery Malt Pouring Liquor License. While the firm has not yet secured a Business Certificate, it will now operate what was formerly known as Pioneer Brewing Company, which had both a General on Premises Malt Liquor and a Live Entertainment License.

S. Kennedy reviewed this matter with Town Counsel, and the premises have been inspected by the Building Inspector. A Common Victualler License is issued under Mass General Law Chapter 140 Section 2, while the Live Entertainment license is issued under Chapter 140, §183A for establishments that serve food and/or alcohol. In addition, the Board previously requested confirmation that prior sewer issues were satisfactorily resolved. Health Agent Alyssa Rusiecki indicated that the septic system was upgraded in compliance with Tittle 5, 310 CMR 15.00, and installation was completed in summer 2014. A memo from Ms. Rusiecki was submitted to the Board.

C. Daniel said that they would like to have acoustic music on Fridays from 6:00 p.m. to 9:00 p.m.; Saturdays from 4:00 p.m. to 7:00 p.m., and occasionally on Sundays from 3:00 p.m. to 6:00 p.m. in the Tap Room.

MOTION: That the Board approve the request by Concord Brewery d/b/a RapsCALLion for a Common Victualler license, by P. Gimas.

2nd: M. Dowling

Vote: All in favor.

MOTION: That the Board approve a Live Entertainment License for Concord Brewery d/b/a RapsCALLION at the hours requested, subject to receipt of a completed application, by P. Gimas.

2nd: M. Dowling

Vote: All in favor.

Appointment to the Council on Aging

MOTION: To appoint Kenneth White to the Council on Aging, by P. Gimas.

2nd: C. Moran

Vote: All in favor.

Ice Dams

S. Kennedy informed the Board that the Town had received an emergency transfer of money to eliminate ice dams on all of the Town owned buildings. She expressed the hope that the Building Inspector will do a preliminary assessment of the damages. She noted that the slate roofs could be expensive to repair. There is significant damage to the Public Safety Complex.

Correspondence

M. Dowling read the correspondence list into the record. There was a letter to the Board dated March 6th from National Grid regarding vegetation maintenance.

Old Business

There was no old business.

New Business

There was no new business.

MOTION: To convene in executive session under MGL Chapter 30A, §18-25, Paragraph #2: To conduct strategy session in preparation for negotiations with non-union personnel; not to reconvene in open session, by M. Dowling.

2nd: M. Blanchard

Roll call vote: C. Moran in favor; P. Gimas in favor; M. Dowling in favor; M. Blanchard in favor.

The Board convened in executive session at 8:55 p.m.

Respectfully submitted,

Judy Knowles

March 9, 2015

BOS Clerk

Date