

**Westborough Board of Selectmen  
Meeting Minutes  
April 24, 2012  
6:00 p.m. – 8:06 p.m.**

Present: Chairman Emery, Vice Chairman Johnson, Selectmen Dodd, Barrette, and Drewry

Also Present: Jim Malloy, Town Manager; Kristi Williams, Assistant Town Manager; Gregory Franks, Town Counsel

**Open Forum**

Nancy Yendriga requested the Board's signatures on the Warrant for the debt exclusion vote, which will be on May 15, 2012 from 7:00 a.m. to 8:00 p.m. The Town Clerk's office will be open until 8:00 p.m. tomorrow night for voter registrations.

**Request to Approve Change of Manager for Ted's Montana Grill / Robert Brammer**

Robert Brammer came before the Board requesting approval to name him as Manager of Record. The completed application is included in the Board's packet and Mr. Brammer is TIPs certified.

Selectman Barrette's motion to approve the Change of Manager naming Robert Brammer the Manager of Record for Ted's Montana Grill at 400 Union St., Unit A-104, Westborough was seconded by Selectman Drewry. Discussion: Mr. Brammer has been working in Westborough since March and ensured the Board that he will enforce the alcohol regulations. Vote: 5-0

**Request to Accept Software Donation to the Police Dept. / Chief Gordon**

Mr. Malloy explained that the Police Department received a gift of 30 licenses for Microsoft Office valued at \$18,000. State law requires approval from the Board of Selectmen.

Selectman Johnson's motion to accept the gift of 30 Microsoft Office licenses from Michael Kelly to be used in the Westborough Police Department was seconded by Selectman Drewry. Discussion: Selectman Drewry questioned the wording of the motion in that the licenses are from Microsoft and not from Mr. Kelly and Attorney Franks explained that the motion is valid as it is for the acceptance of the gift. The Town Manager will send a thank you letter to Mr. Kelly. Vote: 5-0

**Request to Approve a Common Victualer License for SVR Group LLC d/b/a Mayuri Restaurant / Sailaja Setty**

Ms. Setty appeared before the Board requesting approval to open Mayuri Indian Restaurant at 30 Lyman Street, formerly Il Forno/Sandwich Works.

Selectman Barrette's motion to approve the Common Victualer License for SVR Group d/b/a Mayuri Restaurant at 30 Lyman Street as per the attached application was seconded by Selectman Drewry. Discussion: Ms. Setty plans to open the restaurant on April 26, 2012 and this will be their first restaurant. Vote: 5-0

**Flexible Schedule Policy / Town Manager**

Mr. Malloy reviewed the policy which addresses the situation for non-union employees that may have a medical issue or other hardship that would require them, for a temporary period of time, to be out of the office. This would apply to employees who have positions where their work can be done from home. Most of the Town offices have a small staff and this would allow their work to continue during their absence. The contract is written such that requests would be considered on a case by case basis. There are two employees who are currently interested.

Selectman Johnson's motion to approve the Flexible Schedule Policy as attached, dated April 24, 2012 was seconded by Selectman Barrette. Discussion: Mr. Malloy read the policy for the public's benefit, which is included in the Board's packet. The policy ensures that other Town departments are not inconvenienced, it can be reversed at a future date, any equipment needed would be worked out with the employee and their desktop would be accessible from home. They have a cell phone for contact and are required to stop by pick and pick up mail. Selectman Dodd requested that the policy be distributed to the all Departments heads. Vote: 5-0

**Request to Transfer the Inn Holder All Alcohol Liquor License from W2005 WYN Hotel, LP d/b/a/ Doubletree Hotel Westborough to IVC WHH Westborough, LLC d/b/a Doubletree Hotel at 5400 Computer Drive / Thomas Plunkett**

Attorney Karen Simao, of McDermott, Quilty & Miller, and Thomas Plunkett, current manager of record of the Doubletree Hotel came before the Board to request a transfer of the liquor license. This is a corporate change only, there is no change in the day to day operations of the business, and the license will still be overseen by Mr. Plunkett. Attorney Franks explained that this is similar to the restructuring transaction which was approved last year and he does not see a problem.

Selectman Barrette's motion to approve the Transfer of License from W2005 WYN Hotels, LP to IVC WHH Westborough LLC for the license at 5400 Computer Drive as per the attached application, and further, to issue a finding of no detriment in relation to a daycare center located within 500 feet of the premises was seconded by Selectman Johnson. Discussion: Mr. Malloy explained that if there is a school, church or hospital within 500 feet of the premises is has to be declared that there is no detriment to those facilities by issuing a liquor license. Vote: 5-0

Selectman Emery's motion to close the public hearing for the Doubletree Hotel was seconded by Selectman Johnson. Vote: 5-0

**Request to Approve the Application for a Vintner's Agricultural Event/Farmers' Market Special Liquor License / Wade Holtzman**

Wade Holtzman, owner of Still River Winery, appeared before the Board to request approval to sell wine at the certified agricultural farmer's market to be held at the Evangelical Church, 57 West Main Street. Included in the Board's packet is the letter from the Dept. of Agricultural Resources certifying the event, a license from the ABCC for the farmer-winery, and the TIPS certification.

Selectman Johnson's motion to approve the Farmers' Market Special Liquor License for Still River Winery to participate in the Westborough Farmers' Market at the Evangelical Church

property from June 14, 2012 through September 30, 2012 subject to the \$50 fee was seconded by Selectman Barrette. Discussion: The winery is based in Harvard, MA and they make only one product, apple ice wine. He participated in fourteen per week last year. He is TIP certified and all his employees are signed up to take it as well. The Board agreed that a Police Department representative should be present for these requests. Vote: 5-0

### **Selling Tax Title Liens / Town Manager / Joanne Savignac**

Ms Savignac met last week with the Town Accountant, Town Counsel, Assessor, and a representative from Tallage, a Massachusetts Municipal Tax Lien Investment Company to discuss the process for selling tax title liens at auction. Ms. Savignac informed the Board that Mass. General Law, Chapter 60, Section 52 allows towns to sell tax title lien and that Worcester has been doing it successfully for fifteen years. This is another method to collect outstanding taxes. Ms. Savignac explained that when there is failure to pay taxes after one year, The Town attaches a lien, becomes the first lien holder and can file for foreclosure with six months, which they try to prevent by working the resident. The tax liens are sold at a public auction and currently there are about sixty in Westborough amounting to approximately \$380,000. The Town is allowed to pick and choose which tax liens will be put up for auction and the buyer pays the debt and any associated fees. The purpose of presenting this option tonight was for the Board's consideration and whether they would like to pursue this option further. The main concern of the Board would be that this option be used sparingly once all efforts have been exhausted. Mr. Malloy commended the Treasurer/Collector for the fact that 99% of property taxes are being collected in Town, which is exceptional.

### **Board of Selectmen Liaison Program / Selectman Emery**

Selectman Emery reviewed the Board's requests for representation on the various boards and committees and compiled a final list. Selectman Emery reviewed the Board's liaison assignments and listed the committees where a liaison may not be necessary. Selectman Dodd pointed out that there is a policy in place explaining what the liaison duties are and he will send them to the Board, which they will review. He reviewed the original policy in which the Board appointed committees and designated a Selectman as liaison and that now there are committees where Selectmen are voting members and therefore a liaison is not necessary. Selectman Dodd also suggested the possibility of Selectmen liaisons for committees/boards that are appointed by someone else or are elected. Mr. Harrington had no issue with this option. Selectman Dodd requested that the liaison list be posted on the website.

Selectman Dodd's motion that the Board of Selectmen approves the Board of Selectmen Committee Liaisons as written and read by the Chairman was seconded by Selectman Johnson. Discussion: Selectman Emery asked that a copy of the original policies and procedures be added to the Board's packet for the next meeting and that the appropriate notice be sent to the committees/boards informing them of who has been appointed as their liaison.

### **Public Employees and Political Activity / Town Counsel**

At the last meeting Attorney Franks distributed the policy for public employees and public activity which states the guidelines as to what public employees can and cannot do regarding elections. He reviewed the policy, and most importantly, that Town resources cannot be used for advocacy, only for informational purposes. Also discussed were elected public employees and

policy makers that they have more leeway as their role is to inform and guide public debate and are expected to take positions on issues and vote. The link to the State Ethics Commission and this policy will be posted on the Town website.

Capt. Calvin Lawrence informed the Board that the Fire Department was asked by a civic organization to make a presentation regarding the fire station and that at the end stated that there will be an open house at the fire station and gave the date and time. An audience member told him that he was not allowed to make that statement. Attorney Franks stated that it is acceptable to make that kind of statement as it is informational only and that the person making is connected to the issue.

Attorney Franks had reviewed and approved Mr. Malloy's list of options for disseminating information to the public regarding the debt exclusion vote on May 15, 2012, which had been distributed at a previous meeting and new copies were distributed to the Board. Mr. Malloy reviewed the list of options to provide information on the debt exclusion vote and it was decided to change the approach at Harvey's using just a poster board at the entrance and not hand out flyers.

Union firefighters will be creating handouts on their own time, at their own expense and will distribute them on their own time as well. Selectmen Emery and Barrette will make informational presentations to the Civic Club and Rotary Club. Also discussed was where to place poster boards of portions of Mr. Malloy's presentation. There will be a presentation at the Senior Center on May 9, 2012 and it was suggested that any presentation dates be included on the poster boards. In answer to Selectman Drewry's question regarding what avenues people in opposition have and Attorney Franks' response was that they can distribute flyers on private property or make presentations with permission from the respective parties. Selectman Emery requested that the Board consult Attorney Franks with any questions.

### **Public Building Use / Town Manager**

Selectman Emery explained that this item was placed on the agenda on Friday as a citizen requested permission from the Senior Center and the Town Manager to attend a previously arranged community dinner funded by a sponsor with a pre-planned program at the Senior Center. Mr. Malloy deemed that it was inappropriate for anyone to come in and add to the program and he nor the Board had the authority to change it. As this was not well received by citizen and Selectman Emery suggested that the Board review how the public buildings are used. The building use policy which was developed in 2009 is on the website. Selectman Emery also suggested adding to the policy for what purpose citizens can use the public buildings.

Selectman Dodd suggested using the same format/guidelines that were developed for the Town parks by listing what activities are allowed and those that are prohibited. Selectman Drewry's concern is allowing organizations, other than what is approved on the Building Use Policy, for their own agenda and suggested keeping the definition narrow. Selectman Barrette recommended studying the issue further; there is already a schedule and form in place and the citizen that wanted to attend the dinner was looking for a larger audience and was not interested in booking a room. Selectman Johnson agreed with Selectman Barrette, but also feels that private citizens should be allowed to book rooms in public buildings and that the Board should

provide the Town Manager with guidelines. Selectman Emery questioned what the answer would be if a citizen requested to book a room for a forum against a particular issue and if there is a policy in place allowing the Town Manager to deny the request. The policy states, "Town Buildings are available for use by Town Committees and Organizations and for other non-profit civic/community groups." Attorney Franks suggested that the best way to enforce the policy would be to limit the use to within the Town, which the current policy does. The Board discussed which groups are allowed to use Town Buildings. Mr. Harrington suggested looking into the detailed policy adopted by the School Department.

The Board agreed to take the issue under advisement and that the Town Manager's actions were in compliance with Town policy.

### **Goal Setting Session**

Goals had been submitted by Selectmen Emery and Dodd and the Board agreed to wait until the second meeting in May where they will review everyone's goals, which will be combined into one document.

### **Town Counsel Report**

Attorney Franks informed the Board of a decision by the Attorney General's Office that the new Open Meeting Law will now apply to Town Meeting. Even though Town Meeting is explicitly excluded from the Open Meeting Law in the statute, Board meetings taking place during Town Meeting must be noticed forty-eight hours before and be accessible to the public; they have to be able to hear what is being discussed.

### **Town Manager Report**

Mr. Malloy asked the Board if they wanted to appoint a member to be on the School Building Committee for the Gibbons School project. He is a member of the Committee and the Board could also designate him as their representative.

Selectman Dodd's motion to appoint the Town Manager as the Board of Selectmen designee on the School Building Committee was seconded by Selectman Johnson. Vote: 5-0

Selectman Dodd's motion to appoint Irene Oliver as the point of contact for the School Building Authority was seconded by Selectman Johnson. Vote: 5-0

1. Mr. Malloy provided the Board with examples of signs for Veterans Freedom Park in their packets to address the dog issue. He suggested putting up four signs asking people to clean up after their dogs, two mentioning that "our children play here", another two that state "our Cross Country team runs here", and also adding another barrel in the back. Other suggestions were to add "please" to the sign, language that instructs people to dispose of the bag in the barrel, and signs on the bag dispensers.
2. Mr. Malloy informed the Board that an outdoor water ban was instituted as the river levels kept dropping after May 1, 2012 and maintained the low level for three days, which required the ban. Selectman Emery suggested instituting an earlier cutoff date, which is not tied to the level requirements as there may be extraordinary conditions that

indicate that there will be an issue and allow the Town to protect itself sooner. Mr. Malloy explained that a voluntary watering ban could be put in place, but it cannot be enforced as the numbers used implement the ban come from the Town's water withdrawal permit issued by the State.

3. The DPW Manger will be setting the water and sewer rates and the increases will be 4% for water and 5% for sewer. Mr. Malloy explained that the 5% for the sewer is dependent on a vote at fall Town Meeting to reduce the Waste Water Treatment Plant debt as the bonds were not issued in time to have a full bond payment due in FY13.
4. Mr. Malloy provided the Board with a copy of the Economic Development Self Assessment Tool invitation list as requested.
5. The Assistant Town Manager/HR Director has tracked the Health Insurance Opt-Out Program that was instituted two years ago which allowed employees to opt out of the Town's health insurance. The result has been a savings of \$133,270 to the Town, which includes the cost of the "Opt-Out" payment, two individuals and nine families took advantage of the program.

The Board discussed the summer meeting schedule, which typically is the third Tuesday in July and August. At the next meeting the Board will come prepared with their vacation schedules in order to agree on the meeting dates.

### **Issues and Correspondence of the Selectmen**

Selectman Drewry asked to remember the men and women overseas.

Selectman Barrette thanked Mr. Malloy for the difficult decision in dealing with the public buildings and asked that everyone work together as friends and neighbors regarding the vote.

Selectman Johnson received an email from Representative Dykema on April 9, 2012 who visited GE Healthcare on Washington Street and that there were concerns about the poor road conditions. The reconstruction has been postponed due to EMC's project. Mr. Walden explained that they could do cosmetic work, or low level maintenance, but it would be beneficial to find out from EMC if they are moving forward in the near future and Selectman Johnson will raise the issue at the next Economic Development Committee meeting. The Civic Club is holding an annual fishing challenge during the Rotary Club's Spring Festival weekend. The fishing challenge will be held on Saturday, May 5, 2012 from 9:00 a.m. to 1:00 p.m. at Minuteman Park. There is no cost and all are invited to participate.

Selectman Dodd informed the Board that the MBTA commuter rates from Westborough to Boston are projected to increase to \$60 per month. The MBTA Advisory Board is meeting on May 1, 2012 at 9:30 a.m. in the Transportation Building in Boston and asked if any commuting residents are interested in attending.

Selectman Emery addressed the letter from Fran Sowa questioning why the Town is not enforcing the bylaw that is in place to deal with the dog issue at Freedom Park. The issue is that



the property is so large that it is difficult to monitor and enforce. Mr. Malloy will respond to the letter. There was a reception for Lydia Goldblatt, and a scholarship fund for the High School was created as part of the event. Donations are still being accepted. Checks should be made out to the Lydia Goldblatt High School Scholarship Fund and can be delivered to the Selectmen's office. Selectman Emery thanked Tim Novak for producing the meeting.

### **Executive Session**

Selectman Drewry's motion that the Board enter into Executive Session for the purpose of discussing the deployment of security personnel and to discuss the value of real estate was seconded by Selectman Johnson.

A roll call vote was taken: Selectman Drewry – yes; Selectman Barrette – yes; Selectman Emery – yes; Selectman Johnson – yes; Selectman Dodd – yes.

*Submitted by Paula M. Covino*

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**Chairman Emery**

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**Vice Chairman Johnson**

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**Selectman Dodd**

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**Selectman Barrette**

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**Selectman Drewry**