

**Westborough Board of Selectmen  
Meeting Minutes  
December 11, 2012  
6:00 p.m. – 7:20 p.m.**

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

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

**Request to Approve the Board of Selectmen's Meeting Minutes**

Selectman Johnson's motion to approve the minutes of November 27, 2012 was seconded by Selectman Drewry with the corrections noted by Selectman Barrette. Vote: 5-0

**Open Forum** None

**Public Hearing to Consider a Request by Oscarita West LLC d/b/a/ Owen O'Leary's Restaurant and Brew Pub to Transfer the All Alcohol Liquor License from the Piccadilly Pub Restaurant and Alter the Premises at 17 Connector Road / Kevin Gill**

Selectman Johnson's motion to open the public hearing to consider the request by Oscarita West LLC d/b/a Owen O'Leary's Restaurant and Brew Pub to transfer the All Alcohol Liquor License from the Piccadilly Pub Restaurant and alter the premises at 17 Connector Road was seconded by Selectman Barrette. Vote: 5-0

Attorney Jon Aieta and Kevin Gill, principal owner and proposed manager of record appeared before the Board. Mr. Aieta explained that this is a transfer of the prior licensee by way of a court order to Mr. Gill's company. Mr. Gill has over 30 years of experience in the restaurant and liquor business and currently operates two other restaurants. Attorney Aieta reviewed Mr. Gill's previous restaurant experience and the process to transfer the license. The Brew Pub license is additional and separate from the Section 12 restaurant license.

Selectman Barrette's motion to approve the transfer of the All Alcohol License for Oscarita West LLC d/b/a Owen O'Leary's at 17 Connector Road and naming Kevin Gill the Manager of Record as per their application was seconded by Selectman Drewry. Discussion: Attorney Franks confirmed Selectman Johnson's comment regarding the brew pub and that the Board does not have jurisdiction over the brewing only the sale of alcohol. Chief Gordon informed the Board that their Southborough restaurant has a good reputation and he is looking forward to the opening. Chief Perron had no issues as well. Vote: 5-0

Selectman Johnson's motion to close the public hearing was seconded by Selectman Barrette. Vote: 5-0

**Request to Approve the Common Victualer Permit for Oscarita West LLC d/b/a Owen O'Leary's Restaurant and Brew Pub / Kevin Gill**

Selectman Barrette's motion to approve the Common Victualer License for Oscarita West LLC d/b/a Owen O'Leary's at 17 Connector Road was seconded by Selectman Drewry. Discussion: Mr. Gill provided information on the restaurant, brew pub and the menu. Vote: 5-0

**Timber Harvest Award / Derek Saari**

Mr. Saari and Mr. Walden appeared before the Board. Mr. Saari provided an update on the timber harvesting and the work around the watershed. He has received all the permits for the State ten-year forest management plans as well as the cutting plans from the DCR. The Conservation Commission voted and approved approximately 50% of the cutting plans, which was sent out for bid. The bid came back at a cost of \$15,000 as opposed to the Town receiving funds as in previous projects, due to the timber quality and complexity and challenges of this logging operation. The Conservation Commission is discussing options tonight, including tabling the decision until a site walk is conducted. Mr. Walden explained that the main purpose of the project is to maintain the area, not to make money. The Board agreed that the project should wait until the Conservation Commission has done a review. Mr. Saari explained that the Commission approved only 50% of the permitted area as it was their opinion that it was not a necessity, however the management plan does indicate the need and a site walk will provide them with a visual of that need. The Board was invited to participate in the site walk. The timing of the project was discussed regarding weather and the possible need to appropriate funds.

### **Roche Bros. “Great Business Partner” Award / Richard Broderick**

Richard Broderick, Store Manager, and Lester Hensley, Economic Development Committee (EDC) Chair, came before the Board. Selectman Emery explained that Roche Bros. is the first to receive the “Great Corporate Citizenship Award” due to their commitment to the community providing refreshments for numerous events and to the Town’s emergency service providers as well as space for various fundraising events. The Selectmen thanked Mr. Broderick for their financial generosity and last minute support of the interfaith Thanksgiving dinner, for being a great business partner, congratulated them on a well run business and thanked Mr. Hensley and Mr. Malloy for developing the award. Mr. Hensley stated that the EDC is dedicated to insuring that the Town maintains and attracts businesses and this award is a way to recognize and thank businesses for their participation and generous contributions to the community. Roche Bros. is the perfect candidate as the first recipient due to their continued belief in the public/private balance and their continuing commitment to non-profit groups. This award will be presented quarterly. Selectman Emery read the award and photographs were taken by the media.

### **Request to Approve Westborough Village, Gleason Street Special Permit T-OV #05-1 Regulatory Agreement – Affordable Units / Shawn Nuckolls, Project Manager**

Shawn Nuckolls and Derek Wheeler, Toll Brothers’ project managers and Stephen Liedell and Jim Robbins appeared before the Board. Mr. Nuckolls explained that they now have an approved agreement between the Town, Toll Bros. and the Dept. of Housing and Community Development to implement the affordable housing program. This contract ensures that the affordable units will remain as such in perpetuity.

Selectman Johnson’s motion to approve the project Regulatory Agreement between the Town of Westborough, the Department of Housing and Community Development and Toll MA II LLC and further to authorize the Chair of the Board of Selectmen to execute the agreement was seconded by Selectman Drewry. Discussion: In response to Mr. Liedell’s question Mr. Robbins explained that once the building permits are approved the units will be counted towards the Town’s affordable housing. There is a marketing program that outlines the specific advertising requirements which is currently in process. There will be an informational meeting on January 9, 2013 in the Forbes Municipal Building and the applications are due February 1, 2013. Information and flyers will be available in the Town Planner’s office as well as on the MCO Housing website. There will be a press release regarding the lottery and it will also be posted on the Town website and Westborough TV. There are 33 affordable homes in the development.

Attorney Franks stated that the agreement is standard, he has thoroughly reviewed it and most importantly the deed rider restriction is mandated to be included in every deed. Vote: 5-0

**Request to Dissolve the 9/11 10<sup>th</sup> Anniversary Committee / Town Manager**

Selectman Barrette's motion to dissolve the 9/11 10<sup>th</sup> Anniversary Committee, effective immediately was seconded by Selectman Johnson. Vote: 5-0

**Request to Approve the Order of Alteration of Layout and Taking by Eminent Domain with Regard to Summer Street / Town Manager**

Attorney Franks explained this is the last act of the Town to formalize the transfer of the piece of land from the building owner at 3-5-7 Milk Street that should be part of the public way and the piece of the Town land that protrudes into the space that they need. The Board's signatures are needed on the Order of Alteration that Attorney Franks will file with the Registry of Deeds.

Selectman Barrette's motion to approve the Order of Alteration of Layout and Taking by Eminent Domain with regard to Summer Street and to authorize the Board of Selectmen to execute the order and for Town Counsel to file said Order with the Registry of Deed was seconded by Selectman Drewry. Vote: 5-0

**Request to Appoint William Linnane to Westborough TV, Inc. Board of Directors / Donna Kelly**

Donna Kelly, Executive Director of Westborough TV and Bill Linnane appeared before the Board. Ms Kelly requested that the Board appoint Mr. Linnane to the Board of Directors for a three year term effective immediately and ending December 31, 2015 to fill the vacancy left by Bob Brown's resignation. Ms. Kelly stated that Mr. Linnane is very qualified for the position and reviewed the many volunteer positions he has held including the time he has already spent at Westborough TV.

Selectman Barrette's motion to appoint Bill Linnane to a three-year term on the Westborough TV Board of Directors was seconded by Selectman Drewry. Discussion: The Board thanked Mr. Linnane for his service and volunteering for this position. Vote: 5-0

Mr. Linnane informed the Board that the Rotary Club and Westborough TV are working together to get people interested in volunteering.

**Request to Approve E. L. Harvey's Solar Farm / Net Metering Credits / Town Manager**

Mr. Malloy has been working with E.L. Harvey's on the solar farm that they are installing on their South Street property. The solar farm will generate electricity in excess of what they will use on the property and in order for them to receive the credits they have to be assigned to someone who has that level of electricity use. The Town would receive the net metering credits and then sell them back to the system owner for 80% of the credit received. The Town will make 20% and the term of the agreement is 20 years. Mr. Malloy included a schedule of estimated earnings in the Board's packet, which would be \$2.1 million over 20 years or approximately \$100,000 per year.

Selectman Barrette's motion to authorize the Town Manager to execute a contract with Sun Ray Power LLC to purchase the net metering credits generated at Harvey's Farm at 7 Maple Street per the attached agreement was seconded by Selectman Drewry. Discussion: Mr. Harvey, Charles Jenkins, Project Manager, David Khasidy, of Sun Ray Power, and Attorney Adam

Braillard appeared before the Board. Attorney Braillard explained that he had submitted a letter of intent and power point presentation, which provided background information and is included in the Board's packet. He reviewed the presentation in detail, the process that they have followed and the location of the solar farm on the parcel, which is set back at least 100 feet from the property lines. The environmental impacts are reductions to carbon dioxide emission, fossil fuel consumption and polluting emissions. Selectman Dodd thanked Mr. Malloy and his team for their efforts to bring the project forward; in response to Selectman Johnson's question Attorney Braillard explained that the 20% discount will follow the rate of the credit and there is a floor of \$0.085; in response to Selectman Barrette's questions it was explained that the Town does not receive funds, but that it is an earned savings. The contract with Trans Canada allows the Town to generate 15% of its energy through solar power and it does not affect the agreement, it enhances the savings. Mr. Harvey thanked the Board for their time and support. Vote: 5-0

### **Request to Approve Westborough Superior Officers Contract / Chief Gordon**

Chief Gordon and Sergeant Glenn MacLeod appeared before the Board.

Selectman Barrette's motion to approve the collective bargaining agreement between the Town and Superior Officer's Unit for FY14 – FY16 as negotiated was seconded by Selectman Drewry. Discussion: Chief Gordon informed the Board that Mr. Malloy negotiated the contract with Sergeant McLeod, Lt. Minardi, and Sergeant Rossi. He commended Mr. Malloy and the officers for the agreeable process and reaching an equitable agreement. The Board thanked the Chief, officers and Mr. Malloy. Vote: 5-0

### **Town Counsel Report**

Attorney Franks reminded the Board about completing the on-line ethics training. There is a new test which is more useful and specific for municipal employees. It must be completed every other year. When completed the form must be printed and handed in to the Town Clerk.

### **Town Manager Report** None

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

Selectman Dodd informed the Board that the Youth Commission posts their packets on line for the members to review before the meeting and he suggested that the Board consider this process as well.

Selectman Johnson informed the Board that a proposal was presented to the Economic Development Committee at the beginning of the month regarding the reuse of the State Hospital site. The issue will be on the Planning Board's agenda Thursday, December 13, 2012 at 8:20 p.m. Selectman Johnson will attend and the Selectmen are invited to attend as well. The Planning Board will be discussing the new marijuana law at the December 20, 2012 meeting and the Board is invited to attend. In response to Selectman Johnson's question regarding cuts to local aid, particularly the cuts to transportation for special needs and homeless students, Mr. Malloy explained he is currently reviewing the list of cuts from the State. The \$9,500 cut to unrestricted aid is insignificant however the approximate \$120,000 being cut from funds for homeless student transportation will have a significant impact. Mr. Malloy has received the DOR notice regarding the sewer rate relief fund. The Town will receive \$4,000-\$5,000. The Board agreed that as a proactive measure Mr. Malloy should draft a letter to the legislators regarding the cuts to local aid.

Selectman Barrette informed the Board that the Municipal Building Committee (MBC) is meeting with the Design Review Board on Thursday, December 13, 2012 at 8:00 a.m. to review the plans for the new fire station. He, along with Mr. Malloy and Selectman Drewry, attended the St. Mary's Credit Union ground breaking this morning. It will be an improvement to the site and he is looking forward to their moving in. The MBC agreed to move forward with next phase of the building projects and there will be an Article for the Town Hall at the March Town Meeting. The HVAC work needed at the Town Hall is approximately \$1 million and it will be more prudent to renovate the whole building all at once and move the staff one time only as well.

Selectman Drewry asked that the men and women serving overseas be remembered in everyone's thoughts and prayers. Joe Breen passed away earlier this week and Selectman Drewry offered his thoughts and prayers to the family and expressed what a great man he was and how he was dedicated to the community.

Selectman Emery thanked Tim Novak for producing the meeting. Selectman Emery announced that she will run again for reelection. Selectman Dodd is also running for reelection.

### **Executive Session**

Selectman Johnson's motion to enter into Executive Session for the following purposes:

- To discuss collective bargaining, as an Open Session would have a detrimental effect on the Town's bargaining position; and
- To consider the purchase, exchange, lease or value of real property, as an open meeting would have a detrimental effect on the Town's negotiating position.

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**