

Members present: Kevin McCormick Christopher Rucho
Allen R. Phillips Steven Quist
Valmore H. Pruneau

Mr. McCormick convened the meeting at 7:00 p.m.

Read and acceptance of Minutes from Previous Meeting:

Motion Mr. Phillips to approve the meeting minutes for the January 20, 2010 regular session, seconded by Mr. Pruneau, all in favor.

Motion Mr. Rucho to approve the executive session meeting minutes for the January 20, 2010 executive session, seconded by Mr. Phillips, all in favor.

NEW BUSINESS

1. Concur with the appointment of Kevin LaClaire to the Transportation Committee effective February 3, 2010 for a term to expire on April 30, 2012

Motion Mr. Rucho to concur with the appointment, seconded by Mr. Phillips, all in favor.

2. Accept Notice from Charter Communications for Franchise Renewal and request Cable Advisory Committee begin their review of the process and the renewal of the contract

When it is contract renewal time for our cable license, we receive notification from our cable provider, Charter Communications, that our license is up for renewal. They recommend that the Board of Selectmen advise the Cable Advisory Committee to begin the renewal process. Should anyone be interested in serving on the Cable Advisory Committee, whose main responsibility is to negotiate the terms of the contract, there are several available slots.

Motion Mr. Phillips to send notification to the Cable TV Advisory Committee, seconded by Mr. Pruneau, all in favor.

MEETINGS, INVITATIONS & ANNOUNCEMENTS

1. Announce that Peter Desy will not be seeking reelection

The Board thanked Mr. Desy for his 24 years of service.

2. February 6, 2010, 9-1 – Wachusett Regional Recycling Center will hold a collection of electronics, appliances and tires.

3. Announce RFP opening for Tivnan Drive Project

At the request of the Board, Mr. Gaumond issued an RFP on the Tivnan Drive property. Unfortunately, we did not receive any bids for the parcel of land.

4. Announce that the town will be receiving a federal grant through the Assistance to Firefighters Grant Program administered by the Department of Homeland Security for the replacement of the Department's self-contained breathing apparatus in the amount of \$129,675.00, with the town's paying a 5% match in the amount of \$6,825.

Mr. Gaumond noted that absent the grant, we would have no alternate ways to fund the equipment.

Public Hearing: Linda Isgro, Zoning Board Of Appeals Complaint

Mr. McCormick reconvened the public hearing, which was opened on January 20th and read the following notice. Public notice is hereby given, in conformity with the requirements of the General Law c. 40A, §12, that the Board of Selectmen will meet on Wednesday, January 20, 2010, at 7:05 p.m. in Conference Room #1 of the Municipal Office Building, 127 Hartwell Street, West Boylston, MA for

the purpose of hearing complaints about members of the Zoning Board of Appeals. All interested persons, groups, and agencies are invited to attend. Kevin McCormick, Chairman, January 6, 2010. He explained that the original agenda allowed only 20 minutes per public hearing, however, that agenda has been changed to allow for additional time. Mr. McCormick asked Mr. Chevalier, whose hearing is scheduled for 7:25 p.m. if he is amenable to have his hearing begin at a later time. Mr. Chevalier indicated that he didn't have a problem with that.

Mr. McCormick outlined the following process for the hearings. Town Counsel will swear in all persons who intend to testify; Complainant provides testimony and any witnesses; Respondent provides testimony and any witnesses; Final statements and rebuttal by the Complainant; Final statements and rebuttal by the Respondent; the Selectmen will ask clarifying questions and the hearing will be closed. If either party needs additional time to present they need to make that request prior to the closing of the hearing. At that time, a subsequent date agreeable to all parties will be chosen. All questions and comments will be made through the Chairman at all times.

The first hearing is for Linda Isgro, member of the Zoning Board of Appeals. The summary of the charges against Ms. Isgro is you are alleged to continue to raise the frustration level of the Zoning Board of Appeals on procedural questions concerning old, approved minutes and other matters. The Board of Selectmen has received written correspondence from Mr. Philippe Chevalier dated November 18, 2009 informing the Board of his complaint against you, in which Mr. Chevalier reports to the Board of Selectmen that you continue to pursue amendments to old, already approved minutes and that you continue to assert that Zoning Board decisions and meeting minutes are not on file with the Town clerk. Furthermore you are accused of causing an exorbitant amount of time and town counsel expense. It goes on to tell you when the hearing will be. The hearing was continued from January 20th at Ms. Isgro's request. Ms. Isgro was provided a copy of all of this information.

Town Counsel swore Mr. Chevalier in – 'do you swear that the testimony you are about to give will be the truth? State name and address

Mr. Chevalier – Yes, I do, Philippe William Chevalier, 250 Maple Street, West Boylston.

Mr. Chevalier – thank you for the opportunity to address the Board of Selectmen. I am here to ask the Board of Selectmen to remove Linda Isgro from the Zoning Board of Appeals. At the joint meeting with the Board of Selectmen on September 9, 2009 she was asked to stop pursuing amendments to already approved minutes. We were also shown a demonstration by the Chairman as to how easy it is to approve meeting minutes and she persists in bring up old minutes. In an email to the ZBA dated October 2, Ms. Isgro commented so shouldn't we still revisit the minutes of the October 26, 2006 and October 30, 2006 and correct the minutes recorded.

We were told to move forward with regard to old meeting minutes. Again in an email to the ZBA dated February 2, 2009 Ms. Isgro wrote there may be a problem with October 26, 2006 meeting minutes. At our meeting on November 17, 2009 she continued to ask the ZBA to review meeting minutes from 2006 at the same meeting she continued to state that ZBA decisions and minutes are not on file with the Town Clerk. During the meeting she told Brian Lever, and we tried to explain to her, and she continued to persist that the town did not have the decision until finally Mr. Lever's attorney gave her a copy. After the meeting with Mr. Lever, Ms. Isgro initially claimed she hadn't seen these minutes. Ms. Isgro left the proposed changes with the Town Administrator who left them in the ZBA box. She asked if the minutes had her changes. I told her they did not. One of the proposed changes was the time she arrived at the meeting at 7:00. In fact she arrived at 7:10 after we voted on the minutes of September 2, 2009 and on the twenty-four hour operation for Ernie's Car Wash. After a third request for a motion to approve or amend the October 2, 2009 minutes I stated to Ms Isgro that I refuse to spend hours discussing the minutes and Ms. Isgro's inaccurate interpretation of what happened at the ZBA meeting. I also informed Ms. Isgro that I intended to send a letter to the Board of

Selectmen asking them to remove her from the ZBA. Without a motion to approve the meeting minutes I excused myself. It is my understanding that Barbara Deschenes left the meeting shortly. I understand that other ZBA members may wish to address the Board of Selectmen. Ms. Isgro continues to be a constant disruption to the ZBA. The ZBA has always had the respect of the community. I believe that it is in the best interest of the town and the ZBA that I regretfully request in accordance with Chapter 40A, Section 12 of the Mass General Laws that the Board of Selectmen remove Ms. Isgro from the ZBA. Copies of the emails and so-called redlined minutes were given to the Board.

Questions for Mr. Chevalier at this time – not yet from the Board of Selectmen

Mr. Chevalier – I am the one who initiated this complaint, but I do not feel comfortable calling the ZBA members. As witnesses they should speak on their own behalf.

Mr. Rucho – we were at a meeting one month ago and we talked about this same issue and we left with an agreement on how the minutes would be approved.

Mr. Chevalier – we have followed Town Counsel's procedure with approving meeting minutes to the letter. I dispute allegations to the contrary.

Mr. Phillips – most of my questions would be to the other member of the ZBA. You see this one way and Ms. Isgro sees it a different way. How do you do the red lined minutes?

Mr. Chevalier – What we have done is as Town Counsel instructed Donna Jean, our secretary types up the minutes and they are proof read by Barbara Deschenes our Clerk. After that review by members they are brought up on the agenda and I ask for a motion to approve the minutes. Ms. Isgro made changes and did them in redline format and tried to email them. She had difficulty emailing them and she dropped them off with Mr. Gaumond who put them in our box and Donna Jean picked them up. The night we wanted to approve those minutes Ms. Isgro said I never saw them and then we showed her the red line changes.

Mr. Phillips – some of these changes it is 7:00 or 7:10 and whether gas stations were permitted in the watershed.

Mr. Chevalier – the initial change was the time we started the meeting. We had enough members, Charlie Witkus, Barbara Deschenes and myself.

No other Board members have questions.

Attorney McKnight swore in Ms. Isgro – do you affirm that the testimony you are about to give will be the truth.

Ms. Isgro – I do. States name – Linda Ann Isgro, 70 Prospect Street, West Boylston, MA.

Thomas Aikin, 1 West Boylston Street, Worcester, MA is Ms. Isgro's counsel.

The Town Administrator distributed a compilation of emails between the ZBA, Board of Selectmen and Ms. Isgro on chronological order.

Ms. Isgro – thank you for allowing me an opportunity to come before you tonight. I firmly deny all the charges about me by Phillips Chevalier. I deny that I continue pursue amendments to old already approved meeting minutes since our joint meeting on September 2, 2009. Since September 2 he claims that I have done this on three occasions. The first October 21, 2009 during an email to the ZBA from me it is a response to go to a seminar and meeting with the Planning Board and it says thanks, I am interested in going, Linda. It is a note to give them a heads up we are in the process of accepting minutes of October 26, 2006 and October 30, 2006. The second one from Ms. Isgro to ZBA with a copy to Leon Gaumond and referenced redline changes on October 15th. Unable to send them and statements I wanted in there regarding Reverend Teague and the 2.4 funding statement. After the meeting we made reference to not receiving all minutes - those were already approved. My understanding was what was not on the record was not going to be on the record. We were working on the draft minutes of October 26, 2006. Mr. Chevalier did go back to the minutes, immediately after our joint meeting and after that meeting they signed in five new sets of amended minutes already approved

from 2006 and 2007 and made amendments to include the October 26, 2006. They amended 5 already approved old meeting minutes. I was not at that meeting. I did not ask them to do it or know they were doing it. I had emailed ahead, are we having a meeting after the ZBA. I emailed please tell me which minutes were approved. I was never sent anything no response. On Friday, October 16th I sent the Selectboard an email and it references what we are talking about. As you may recall when we met on September 2 you determined you did not want to revisit the past and make changes to the minutes. I reflect on some of the issues and things I feel were important to bring to your attention. There was no undermining. The September 2, 2009 is a true copy and it should reflect all of the minutes that were amended, most since 2006 or 2007.

I deny the second charge. I specifically refer to only the final Mr. Lever decision. Our secretary was able to provide me a copy and I made a statement that I had not seen that copy. She couldn't give me a copy because the copy machine jammed. The attorney offered me a copy. Mr. Chevalier should know that the decision on Mr. Lever project was not put on file and I have been requesting them. I also have included numerous comments on pages 5 and 6 of the packages, three emails referring to that situation. When I made the statement, 'I had not seen that' and he said, 'you have too, they are on file.' Mr. Chevalier signed the final copy we were working with a draft. It is a comprehensive permit that has been amended four times.

I denied the third charge. Mr. Chevalier charge is that he claims that I continue to raise the frustration of the ZBA and it was Mr. Chevalier acting alone who raised the frustration level when he lost his temper and threatened to have me removed and he left the meeting. He says he is responding alone, he does not claim other ZBA members. That particular event I became frustrated because he failed to provide any of the members with a copy of the minutes. He caught us off guard and I was speaking with Mr. Witkus about something and he called to accept them. The only question I had was I have not seen the copy you are voting on - not that I had not seen them before. I asked him does it include my red-lined changes. That event is completely misconstrued. He became very frustrated and said they are 'as drafted.' I did not know what 'as drafted' meant but I did make a comment did it include my red line changes and I tried to entertain a discussion of that. Then Donna Jean pulled them out and showed them to Charlie Witkus. He would not allow a response. This was asking where Rev. Teague was or the 2.4 million that was appropriated. He flew up, made a lot of noise and said I have had it and I am not going to take it anymore. He said I am not going on for two hours on the minutes. The whole thing took place in two sentences he left the whole meeting. It was a simple statement he didn't want the statement in there and there is no history of any frustration. None of my members have expressed any distaste - nothing in the record. I don't know if I ever voted against the majority. I am hardly on the record so I cannot be too frustrating. I have attended every meeting except one on September 2. After seven years of service I have never missed. I do not think that shows somebody who does not want to be thorough. I do not think that his claims are at all what they are. I did nothing sneaky. I only looked back at October 2006. We tabled them on August 25th. The October 26 minutes were not where we could have discussion on draft minutes. It was not on the record or in draft form when we discussed. All of that has gone by. Half of the claims are false they did not take place, they have no substance and are unfounded. I am hoping that when you make your decision you will take that into consideration that I am not taking an exorbitant amount of time and town counsel expenses. I have never been afforded Town Counsel. Mr. Aiken is my counsel and it is the first time I have ever hired one. I am not here to do anything to anybody. I simply want to defend myself against these false charges.

Mr. Philips – what was the statement you said Mr. Chevalier did not want in the record?

Ms. Isgro – the statement was did the new applicant, there is a new Reverend because Reverend Teague we do not where he is. When the new Reverend came in with the developer and the attorney Mr. Chevalier informed us about an appropriation of 4.6 million dollars. I asked if they knew where Reverend Teague was or if they knew of the 2.4 million in grant block money was. They made the statement that they did not know. Donna Jean made a statement after he is not in town. They didn't know where he was and assumed he was out of state. She referenced it as I questioned financing. They explained the financing for about 20 minutes. I did not care about the financing, I wanted my statement to reflect accurately and if you read my email to the Board of Selectmen the next day on October 16, I say exactly that I discussed both issues at the heart of Phil Chevalier's complaint.

Mr. Phillips – it also said they do not know the whereabouts. The 2.4 million is not West Boylston's money it was money through a grant elsewhere and the ZBA does not oversee that.

Ms. Isgro – It is community block grant funds. Do not have the answer I am not privileged to that agreement. It is my assumption it was given to FWC an LLC.

Mr. Phillips – Did you and the rest of the ZBA get the draft minutes? You said you did not have a copy but you had seen them

Ms. Isgro – we are sent it, we did not have a copy at the meeting.

Mr. Phillips – everybody had received a draft copy to look over?

Ms. Isgro – correct.

Mr. Phillips – the amendment done on October 26, were those the amendments you requested? You said they amended minutes on October 26 and you were not there.

Ms. Isgro – the October 26th is in 2006. On September 6th those were approved after we met but going into the meeting of the joint meeting I brought that up. They were never approved.

Mr. Phillips – after our meeting on September 2, did they go back and approve October 26, 2006 and October 30, 2006?

Ms. Isgro – they amended them on December 14, 2006. They made changes and amended October 26, 2006 and December 12, 2007.

Mr. Phillips – are these the ones you requested changes on?

Ms. Isgro – no. Requested changes to add October 26th. The December 14, 2006 those requested changes we voted and approved on August 5 prior to this I do not know why they came back on September 2. To be amended and approved it is my understanding. Those I had requested changes on.

Mr. Phillips – did they include the changes you requested?

Ms. Isgro - I do not know what took place on September 9 - I was not there.

Mr. Phillips – did they have amendments to them that Ms. Isgro requested, or the original from 2006 that were approved?

Mr. Chevalier – Matt may want to comment. There was a meeting with two minutes back to back. The two meetings were close together and when Donna wrote the minutes she wrote them as one meeting. Matt went back in his notes and reconstructed those. On September 2 we made a statement that all the minutes would be updated and current.

Matthew Paul Colangelo, 136 North Main Street was sworn in.

Mr. Colangelo – what Mr. Chevalier said was basically true there were some issues with the October 26, 2006 minutes and being that they were three years old I did not remember everything. We did find that we combined two minutes into one. Ms. Isgro did ask for some changes and none of us knew verbatim what happened. We accepted Ms. Isgro's changes in those minutes.

Mr. Pruneau – on October 15 you arrived at 7:10 but in quite a bit of correspondence you said you arrived at 7:00 p.m.

Ms. Isgro – I believe I arrived at 7:00 p.m.

Mr. Pruneau – was it 7:00 or 7:10?

Ms. Isgro – The secretary entered it in at 7:00 that the meeting started. Our first agenda item was Ernie's at 7:15 and the agenda I had been given it had indicated 7:10 when I arrived and I questioned why they had started. I think I asked Charlie Witkus if he did minutes. At 7:10 they were starting on Ernie's hearing and it did not indicate to me I was not on time. I usually get there on time and am waiting for people. I was not there when they accepted the minutes. The Chairman claims the minutes are accepted even if they listen to it on tape. I am here to defend my position on accepting and amending. There was a process that took place in the summer and we tried it at our two meetings. I do not recall it rising to a level of frustration the first time I tried to make a change to draft minutes according to the process that was recommended to me and Mr. Gaumond did the redline changes. The point is for some reason I was late at that meeting and those are my redlined changes - it is what I believes changed. I only made two changes in time one was 1:10 in the a.m. and this one. I do not believe I was late I believe Mr. Chevalier did not want to have me there during the process of accepting the minutes and it is easier to do it without me.

Mr. Rucho – what time do you get to the minutes?

Ms. Isgro – thought it was at 7:00 p.m.

Mr. Rucho – you are saying the board met before 7:00 p.m. and voted on the minutes to do it before you came in the room?

Ms. Isgro – well they did minutes. I guess what you are asking me is because it is written in the record that makes it correct. It is not a point with me. I will concede on 7:10. I never brought the time up.

Mr. Phillips – you did on the redlined change.

Ms. Isgro – yes, on the redlined change. It never went anywhere.

Mr. Phillips – part of the frustration is if we are making changes we have to make changes because we know that are incorrect. The changes are more structure and not context.

Mr. McCormick - it says you came in at 7:10 but the approve minutes say 7:00 and they do not have you included in the vote for Ernie's Car Wash.

Ms. Isgro – I was there in the beginning of Ernie's Car Wash.

Mr. McCormick – you did not vote.

Ms. Isgro – no I am not allowed.

Town counsel swears in Charles Witkus, 290 Maple Street; Barbara Deschenes, 39 Hosmer Street, John O'Brien 18 Lost Oak Road, Paul Hennessey 163 Prospect Street, Donna Jean Ramonaz Secretary.

Mr. McCormick to Mr. Chevalier – do you believe you started at 7:00 p.m.

Mr. Chevalier – actually a few minutes after. I do not recall the time Ms. Isgro came in - clearly after the meeting minutes were approved, we began and a representative from Ernie's Car Wash came to the table. I do not recall Ms. Isgro being there for the vote.

Mr. Witkus – she came in ten minutes late and we started on time.

Ms. Deschenes – believes it started on time and Ms. Isgro was late.

Mr. Rucho – what was the meeting that Mr. Chevalier left?

Ms. Isgro – November 17, 2009.

Mr. Rucho – did you finish the meeting after he left? Did you have a quorum?

Ms. Isgro – we discussed the minutes and the matter I wanted to have put on the record. It was my understanding that Charlie Witkus agreed and he was annoyed that Mr. Chevalier was not going to take the time to discuss it. I believe Barbara Deschenes was there for that discussion.

Mr. Rucho - so you finished the meeting after he left?

Ms. Isgro – we were still talking about the meeting minutes, yes, three members there Donna Jean, and Brenda Bowman were there.

Mr. McCormick – it says Mr. Chevalier asked for a motion on the October 15, 2009 minutes and he never got one and after that he left and Ms. Deschenes left shortly after that and the minutes were never approved.

Mr. Chevalier – these are a draft copy not yet distributed to the members. The October 15th minutes were emailed to the members and not yet approved. Meeting minutes of November 17 have not been approved or disseminated to the members only typed up by the secretary.

Mr. McCormick – Ms. Deschenes did you leave after Mr. Chevalier?

Ms. Deschenes – 6 or 7 minutes after he left.

Mr. Witkus – I left with Mr. Chevalier and Ms. Deschenes.

Mr. McCormick - so the only one left is Ms. Isgro and Donna Jean so it was not a meeting and it was never adjourned because you did not have a quorum. Minutes got done and the October 15, 2009 draft copy is still outstanding whether they accepted the red lines is up to the board.

All members of the ZBA came forward

Mr. Witkus -we are all wasting our time. This is nuts it does make any sense at all. The ZBA should straighten this thing out. Ms. Isgro has every right to ask questions and Phil Chevalier is the chairman of our Board and he has to be patient enough to answer questions and work with her. To come before the Board of Selectmen, I will probably be the next person to be thrown off. If two people do not work together it is not going to work we did not realize it was such a problem. There was a little bickering back and forth, we never thought it was going to go this far. I think it is a little ridiculous.

Mr. Phillips – the reason it is here is because the Board of Selectmen is the appointing authority and when one Board member makes a complaint against another board member we have to address it.

Mr. Witkus – maybe we should address it at our own board. The minutes give a general overall impression of what we did at the meeting; there was nothing wrong with them. I signed off saying this will clear everything up. Poor Linda is very fussy and is a perfectionist. You cannot work that way. That is my opinion, I am not a perfectionist.

Mr. Phillips – do you feel that your recollection on these minutes were different than that of Ms. Isgro on the October 15, 2009 minutes at the November meeting.

Mr. Colangelo – I was not there.

Mr. O'Brien – was not there

Mr. Hennessey – I was at October meeting, not at the November meeting.

Mr. Phillips – do you read the minutes?

Mr. Hennessey – no.

Ms. Deschenes – the minutes before redlining were pretty accurate. I do not feel that the items on Mr. Teague should have been in there other than that they were fine.

Mr. Witkus – those minutes are perfect.

Mr. Phillips – do you feel there is a problem on the ZBA that keeps you from doing your job effectively?

Mr. Colangelo – yes

Ms. Deschenes – yes

Mr. O'Brien – yes

Mr. Witkus – yes

Mr. Hennessey - yes

Mr. Phillips is this a problem that can be corrected?

Mr. Colangelo – I am not sure that it can. It has gone way too long and it is a source of embarrassment for the ZBA and the town. It is obvious this has gone beyond just trying to approve meeting minutes and I am not sure we can overcome this without some changes being made.

Mr. O'Brien – agree with Matt. An example is the discussion on the time of the meeting. This goes on and there are people sitting in the audience it is embarrassing.

Mr. Hennessey – thinks the representations by the two say it all – one is short and concise and the other is drawn out.

Ms. Deschenes - agree with all of the above. The meetings are getting dragged out you do not want to spend an extra hour doing what has to be done.

Mr. Witkus – the meetings are good the way they are but I believe we can still function and work together and we have to help both of these people so they get along.

Mr. McCormick –the charge you raise the frustration level of the ZBA – Mr. Colangelo is that accurate?

Mr. Colangelo – yes, it is frustrating

Ms. Deschenes –yes.

Mr. O'Brien – yes.

Mr. Hennessey –yes

Mr. Witkus – I believe everybody has to change and if they want to ask questions you should not go ballistic when somebody asks a question. I do not see any of your group getting up and leaving

Attorney Aiken- a review of the record indicates this issue has been in the last three months and she has been here seven years and she was recently reappointed to another term. It is hard for me to believe this could rise to this level in three months and become such a contentious environment. The law also says any member can be removed for cause. Case law has no definition of cause. None of this has been proven. We have heard discussions about controversy and if there is anything that irrational it is Mr. Chevalier's behavior. I have advised ZBAs for a number of years and it is rift of frustration the ZBA shall be last line of defense for land use and permitting. The board minutes have to corrected and recite exactly what the nature of the decision is. You do not get a second change. Once you get in front of a jury there are no minutes of wasted time. The material in the package affects the town's finances and the ZBA is the last line of defense. Ms. Isgro has been a responsible and diligent member of the ZBA. I do not see how an egregious situation could arrive in seven years served to the town. The town sorely needs conscientious and diligent members to look at minutes and look back at copious minutes. These have to be reflected in the minutes. If this is the price she has to pay to make them correct she is willing to pay it. I ask the Board of Selectmen to make a decision of no cause for removal from the Board. I think the board can work this out themselves.

Mr. Chevalier – thanked the Board of Selectmen and the sentiment of my board (ZBA) in testifying directly of the level of frustration and distraction this has become. A number of the things she has stated are not true starting with her initial statement of arriving at the meeting at 7:00 and on time. Saying that this has been going on for only three months is not correct. I approached the Town Administrator at re-appointment time and this has been going on for quite some time. Before she was on the board she sued us on the Lever issue comprehensive review. It started off on the wrong foot and every meeting it is the same thing. I stand by my statements.

Ms. Isgro – that is not correct - it was a judicial review, not a law suit.

Mr. Chevalier - I would put it in the hands of the Board of Selectmen.

Motion Mr. Phillips to close the hearing, seconded by Mr. Pruneau.

Mr. McCormick stated that we may put off deliberations until the next meeting, it will probably happen next week or the following week. Vote on the motion – all in favor. Board takes a two minute recess.

Mr. McCormick opened the public hearing and read the following notice. Public notice is hereby given, in conformity with the requirements of the General Law c. 40A, §12, that the Board of Selectmen will meet on Wednesday, January 20, 2010, at 7:25 p.m. in Conference Room #1 of the Municipal Office Building, 127 Hartwell Street, West Boylston, MA for the purpose of hearing complaints about members of the Zoning Board of Appeals. All interested persons, groups, and agencies are invited to attend. Kevin McCormick, Chairman, January 6, 2010.

Mr. McCormick outlined the following process for the hearings. Town Counsel will swear in all persons who intend to testify; Complainant provides testimony and any witnesses; Respondent provides testimony and any witnesses; Final statements and rebuttal by the Complainant; Final statements and rebuttal by the Respondent; the Selectmen will ask clarifying questions and the hearing will be closed. The summary of the charges against Mr. Chevalier is you are alleged to have yelled at a member of the Zoning Board of Appeals. The Board of Selectmen, through the Town Administrator, has received written correspondence from Ms. Isgro reported to the Town Administrator that you began yelling at me and jumped up and left the meeting. Furthermore the Board of Selectmen through the Town Administrator, has received written correspondence from Ms. Brenda Bowman dated November 18, 2009 informing the Board of her complaint against you which Ms. Bowman reported to the Town Administrator that you Phil was so unprofessional showing his anger saying he can't take this anymore this meeting is adjourned jumping up and yelling as he ran for the door. A copy of the letter of complaint is enclosed with this notice.

Mr. McCormick stated that we have an amended complaint from Ms. Isgro dated January 18, 2010. It reads, I am requesting an amended complaint to ensure the hearing addresses all the matters presented to you in my former correspondence/complaint as advised by Town Counsel. Enclosed please find my last complaint which was correspondence sent via email to both you and Mr. Gaumond regarding Mr. Chevalier's threat to remove me dated November 18, 2009. Your summary of my charges against Mr. Chevalier only includes the one charge that he yelled at a member of the Zoning Board of Appeals. The complaint should properly be amended to include all the following charges. The first charge is Mr. Chevalier failed to keep his promise to follow the process as agreed with Town Counsel at our September 2, 2009 Selectmen's meeting allowing members to make redline changes with draft minutes, which was also sent to ZBA members and outlined on August 5, 2009 by Mr. Gaumond's email. He failed to allow discussion or a motion to amend draft minutes. Mr. Chevalier continues to refuse to follow proper procedures and continues to cause an exorbitant amount of time and town counsel expense. The second charge is Mr. Chevalier threatened to have the Selectboard remove me as a ZBA member and has presented you with charges that are false and misleading. Charge #3 is Mr. Chevalier continues to shout at me and insult members at open meetings and in the public setting. Statements like stop being such a smart ass, you are so full of crap, I will run my Board the way I want, if you knew how to read what was in front of you and if you could read the engineer's plans then you would not be asking that question. His statements continue to raise the frustration level of the ZBA. The former complaint against Mr. Chevalier as of the joint selectmen's meeting on September 9, 2009 should also be included as part of his hearing.

Town Counsel swore in Linda Isgro, 70 Prospect Street, West Boylston ZBA members Matthew Colangelo, Barbara Deschenes, John O'Brien, Paul Hennessey and Charles Witkus and Brenda Bowman.

Ms. Isgro – members of the Board of Selectmen, as you may recall, emails sent to Leon Gaumond on the 18th outlined facts that took place at that meeting. It was not initially sent with the intention of a complaint against Mr. Chevalier it was sent to inform the Selectboard what took place and what lead up to Mr. Chevalier to run out of the meeting and leave the meeting and threaten to remove me from the ZBA and you took that copy and not attached to the amended complaint. It says Hi Leon as you

may know the ZBA met with Mr. Lever and his attorney regarding changes from rental to ownership with his 40B last night. After they left Chairman Chevalier made a motion to accept the minutes of October 15, 2009. I inquired as to whether the requested changes were made and he informed me that they were still as drafted. I asked Donna Jean if she received the redline copy that I left with Leon at town hall and she pulled them out of her folder. The Chairman refused to address any discussion related to any requested changes. He began yelling at me stating that he is tired of putting up with on the board and that he is going to the Board of Selectmen to have me removed from the ZBA, he jumped up and left the meeting. I followed the process that you, Town Counsel and all the ZBA members agreed to – red line only major changes and place a note on them requesting Donna Jean amend them. I am requesting that you and/or the Board of Selectmen appoint special counsel to represent me and that any further challenges made by the Chairman regarding my integrity be made in executive session, as well as any intentions to remove me or deny my right to continue to participate on the board. As you know I was not afforded town counsel and I provided my own representation. I am not pro active in litigation or hold him libel for his comments. They are disrespectful and regardless of that I believe they call me a smart ass and full of crap and insulting other members as in Mr. Witkus is suggesting in his performance of a Chairman and the professionalism we should expect as a town. I believe that the people deserve better. I have not brought anybody here to support my feelings. I know that Ms. Bowman has expressed her feelings for some time to me as to how the Board is run. I do not think there is any doubt that the Chairman vacated his role as Chairman. I have not suggested that he be removed from the Board. I believe he should not be the Chairman and I still believe that. The problem on the board should not be personality ones. I have not disrespected the Chairman and I feel he has disrespected me. He will do that to who replaces me if they do not do exactly what he wants and if this is the type of board and participation you would like to see I cannot change that. He also threatened that he would not remain Chairman unless I was removed. To set the record straight I requested a judicial review that was requested seven years ago and people should have had that. I never sued anybody in this town and I never pressed criminal charges. I do know that criminal charges were made on people testifying here tonight. I find that form of government intolerable and any endorsement that would be granted to the behavior of a Chairman who decides to bully members of the public. I think we need to take a very serious look at what we want as a form of government. I do not believe that is what we want. We have been a supportive board. That one issue is something that has not been forgiven. I was never warned he had the joint hearing and the various open meeting violations he failed the process whether or not it is in public favor is not the point. He failed and it was my duty. He has retaliated against me. It is a defiance of what the Board of Selectmen ordered after the joint meeting. I respectfully request that you address the many minutes. Mr. Chevalier has not acted on the request of Mr. Gaumond or the Town Clerk. We probably would not be here if there was not three years of neglect and vacating the duty as the chairman. I have been patient. He has not been. The big picture is should the Chairman be rewarded or make a threat against a fellow member because they are requesting to do something that in two months prior you said we should be allowing - red lined changes and I would thank you for considering all the matters that I already passed in. There were four pages in the packet and the last page was missing it is a moot point and there is enough to build on that.

Ms. McKnight, Town Counsel - is it clear what the material already passed in are?

Mr. McCormick - yes, the Board of Selectmen already has four pages and the amended pages.

Mr. Phillips – to Ms. Isgro you said that a threat was made against you but there is none in the complaint the threat to remove you from the ZBA is that what you are referring to?

Ms. Isgro – yes.

Mr. Phillips - you made another statement that you were not asking for removal of the Chairman.

Ms. Isgro – I never asked for removal of him as a member of the Board but asked for removal of him as Chairman of the ZBA so we could move through this process.

Mr. Phillips – are you right now asking for removal of Philippe Chevalier now, yes or no.

Ms. Isgro – I would like to say that my email was a rendition of the facts on November 18. That email was what you took along with Ms. Bowman's of what took place that night and then they said that he responded with a formal complaint to remove me. From what I understood at your December 2 meeting you decided to hold this meeting and for a removal hearing for me and for him. This was the form of what you called my complaint. When I received it I never really saw what the complaint was. If I had a complaint to put forward, which I have amended, those would have been the issues. It was not my call to have the hearing.

Mr. Phillips – you mentioned criminal charges against somebody, are they related to this case?

Ms. Isgro – there was a criminal investigation that went on according to the police who contacted the ZBA. I guess it was by Mr. Chevalier per Leon Gaumond. I found it to be retaliatory and untimely.

Mr. Phillips – to Ms. McKnight, town counsel, since there are accusations about charges do we need to know what these are?

Ms. McKnight – it was not clear to me what criminal charges Ms. Isgro is referring to. To ask again is appropriate.

Ms. Isgro – we received a call from the police, Detective Tavano questions about taping.

Ms. Phillips – but no member of the ZBA was charged?

Ms. Isgro – I am not aware of the results of the investigation.

Mr. Phillips – In #1 you stated Mr. Chevalier fails to allow discussion or a motion to amend the draft minutes, but in the minutes it does say a motion was called for on the approval of the minutes.

Ms. Isgro - he did not discuss how the form was and that is when the whole thing fell apart. Because we did not have a copy available that night for us that is where the problem came in and the process fell down.

Mr. Rucho – you mention taping, are the ZBA meetings taped?

Ms. Isgro – our secretary does not tape them, no.

Mr. Rucho – you mentioned two times about taping.

Ms. Isgro – not to my knowledge as a board we do not practice that, but it would be a good resolution.

Mr. McCormick – you mentioned that Mr. Chevalier does not allow for red-lined changes to be made. Is it your impression that when you red-lined an issue it is an automatic change?

Ms. Isgro – I understand and you accept it. The point was I was never afforded that opportunity. It was never addressed.

Mr. McCormick – we have two sets of minutes from October 15 one says 'draft' and one is red-lined. The draft was done and it has different items. The last section is totally different under the Franklin Street 40B Extension Request. The draft copy was that after you red lined.

Ms. Isgro – I added the red line into the draft minutes.

Mr. McCormick - you changed the context. Mr. Chevalier was asking for a vote on the draft minutes. That is what Mr. Chevalier was asking to be approved that night.

Ms. Isgro - because I was not able to red line the email I sent out references the two sentences I wanted a statement added and one other thing. I did not change the context.

Mr. McCormick – you added five things to the original, but no one received a red-lined version.

Ms. Isgro – no one was my understanding. I brought it to the town hall and Mr. Gaumond put it in the ZBA box. I called Donna Jean and told her they were in the box and she never got them. Phil Chevalier picked them up.

Mr. Rucho – the minutes we call the red-lined minutes were brought forth at the meeting. When the minutes were discussed, were they ever given to the Clerk?

Ms. Isgro – I do not know if they were ever given. Phil Chevalier picked them up in the mail box. I thought the procedure was they were given to Donna Jean. I did email her and told her I wanted two basic changes. They were take out financial discussion because the sentence was actually do you know the whereabouts of Reverend Teague and the 2.4 million dollars. She put in the first part but did not add the second part of the sentence. She said Ms. Isgro expressed concern with the financials or something like that. I did want to see that in there. I feel that Mr. Chevalier did not want to even discuss it with the members of the Board whether it was going in there. There was a question on whether it was appropriate or not. I think that by him shutting the meeting down and not bringing it forward for a vote it probably will not be changed.

Mr. Pruneau – was there any motion made to amend the minutes to include the language?

Ms. Isgro - we started to discuss it and he just kept talking.

Mr. Pruneau – did somebody make a motion to accept the minutes?

Ms. Isgro – the Chairman made a motion to accept the minutes as drafted.

Mr. Pruneau – he cannot.

Mr. Phillips – (reading from the October 15, 2009 minutes) There was a discussion on the extension for the permit. Mr. Witkus questioned when the letter requesting the extension was received. Ms. Isgro had them add in, ‘and why Mr. Chevalier didn’t give members notice before the meeting. Mr. Witkus requested a one-week extension for comments from the Selectmen and other boards, seconded by Ms. Isgro.’ The correction, to Mr. Phillips, is more confusing than the original language. You did not second the motion?

Ms. Isgro – does not know what the second on the motion is.

Mr. Rucho - since November 17, these minutes have not been approved yet?

Ms. Isgro – we have had two meetings and the minutes have not been approved.

Mr. Chevalier - the first question is the same one Mr. Phillips asked Ms. Isgro – if Ms. Isgro is not petitioning the board to have me removed then why are we here? If that is the case then we should withdraw the hearing and go home. With regard to the meeting Ms. Isgro referred to I did not storm off. I was frustrated that night. Her email was not an accurate report on what happened. I do not make motions for minutes. I started off that part of the meeting just like Kevin just did at the beginning of the meeting I ask for a motion. We have meeting minutes emailed to the members. That night Ms. Isgro came out and said I have not even seen those minutes and I said Linda you have seen them because you made changes and dropped them off at the Town Administrator’s Office. Donna Jean picked them up. She said she never saw them. We showed her the red lined change and she said are my changes in there and I said no. We had followed Ms. McKnight’s process. Any changes of substance should be deliberated by the Board at the meeting. She did not make an amendment she kept babbling on. She continued to talk and my frustration level increased. I finally asked for a third time for a motion at that point I folded up my book and said I had enough. I could not get a motion to amend or approve. I said I am adjourning this meeting and when I got to the end of the table I said I just want you to know that I will be sending a letter to the Board of Selectmen asking them to remove you from the ZBA.

Mr. McCormick - two minute recess with Town Counsel.

Mr. Chevalier – one question with regard to one of the statements that there were numerous public records violation. To my understanding it was procedure. With regard to criminal charges, the criminal charges she is referring to and the reason some ZBA members were contacted there are some local people writing on web sites and the blog associated with the T&G. In one of those articles the person who wrote the article has the right to say whatever he would like to but one of the parts of the article had a link to youtube and it was a link to the November 17th meeting and an audio tape. I was concerned because my understanding of the open meeting law is if somebody wants to record you have

to talk to the governmental board or the chairman and notify them you are going to record the meeting. It was the Federal Wire Tapping Statute and the State Wiring Tapping Laws. I approached the Police Chief and told him of what was on youtube. It was somewhat biased with only one portion of the meeting. I did not know if it was criminal, the Police Chief informed me that in fact it is illegal and criminal and it means it was not done the proper way. I talked to Detective Tavano and I have not seen the report yet. It is criminal what they did. I have no problem being recorded, but tell me you are doing it and 90% of the people in this room probably heard it – did I yell at her and storm off? It is an illegal tape – take it for what it's worth. I have volunteered in some capacity for the town since 1987. Beginning with the Finance Committee, two terms on the Board of Selectmen, the Parks Commission and many sub committees. I continue to serve for many years on the ZBA, grew up in West Boylston and wanted to serve town government, did not get involved because I was opposed to a project being built in my back yard, got involved to do civic duty. The ZBA did get behind in approving minutes and I accept responsibility for those delays and addressed them. Following the September 2, 2009 meeting with the Board of Selectmen, the ZBA approved all outstanding minutes. The minutes from October 15, 2009 to date have not been approved. They are typed by the Clerk and emailed to the members. I serve at the pleasure of the Board of Selectmen and would be happy to answer any further questions.

Mr. Phillips – to Ms. Isgro - on the audio portion were you aware that the meetings were being taped? Did you know at the time or become aware of the taping?

Ms. Isgro – I did not give a statement to the police because I felt as though I should be entitled to my attorney – I respectfully would not want to make a statement tonight.

Mr. Rucho to Mr. Gaumond – this notice that went out on the removal from office is that what we requested and you sent the letter out?

Mr. McCormick – this is a hearing based on the complaints from Ms. Isgro and Ms. Bowman and it is our hearing to determine what we should do and we had to notify him there was a possibility he could have been removed. It was not a direct complaint from Ms. Isgro. Mr. Chevalier asked to have Ms. Isgro removed and Ms. Isgro did not ask for the Mr. Chevalier to be removed. Based on the complaints from Ms. Bowman and Ms. Isgro we are having this hearing.

Mr. Rucho – should Ms. Bowman be heard because she filed a complaint?

Mr. McCormick – if she would like to speak she can certainly speak.

Ms. Bowman – I had a prepared statement and I left it at home. I did not think I was going to get to speak. I assume everybody read my complaint it states what Linda and Phil are talking about. In it I mentioned that I had sent you an email in August, everyone received it and I asked you to please remove him from the Board because of the way he was acting and to remove the secretary because she was not recording the correct minutes. No one responded to me. That is why I cannot believe nothing has ever been done. There are so many issues. I have been going to ZBA meetings for quite a while. They are very hard to follow. They are usually put up less than the 48 hour notice, or after I check on Friday afternoons.

I go to follow the 40Bs in town. I was shocked to find out minutes were being prepared back three years ago. On September 11, 2008 there was a ZBA meeting with Lever and his lawyer and people from Oakdale, Sandy Meindeirsma from the Banner were there. He opened the meeting and as soon as everybody got there he went into executive session for 45 minutes. We went back in. I have gone back and all this happened because I am researching all the minutes to put information in the Open Space Plan. You cannot follow anything in the ZBA minutes because you cannot follow anything. When people say something in a meeting, maybe a 40B it should be recorded but I found was it was not being recorded. I went to a meeting and I asked Donna Jean to please record the meetings. She starts off a sentence and ends it with somebody else. So I made the suggestion that she record them so she will not get confused. As far as everyone here knows I did the recording and it all

stemmed from me asking Donna Jean to record meetings to reflect what happens in minutes. Minutes need to reflect what happened at the meeting. The September 11 minutes reflect that it was only executive session. This is August 5, 2009 when they brought the minutes forward. I said there were a lot of people here and it was not just executive session. Ms. Bowman referred to a Banner article, which she brought with her in which there was a story about the Lever project. She stated that she brought this up to Phil Chevalier at the August meeting and he said you cannot believe anything you read in the paper. So tell me I should not be frustrated about how these minutes are being done. Something should be written in the minutes about the 40B for the future. The decisions are not being routinely done. I think it was pretty simple because I was seeing constant problems with the meetings and the minutes. People got up here and swore that they knew nothing about certain things yet I can bring you that recording that they knew they were being taped because Donna Jean said is your recorder still on or did you run out of batteries yet? I have the recording if you would like to hear the honest truth of what happened and I have resigned from all committees.

Mr. Phillips – it is not only 40B that needs to be recorded – it is everything.

Ms. Bowman – I was concerned with 40B – didn't want to see another Heritage Lane happen.

Mr. Phillips - yes, I heard part of the audio tape I cannot hear the whole thing because the Police Department said it was an illegal recording.

Ms. Bowman - the Inspector General said it was an open meeting and should be able to be recorded.

Mr. Phillips – we are here to discuss whether Mr. Chevalier should be removed.

Mr. Phillips – on the September 11, 2008 minutes, they only reflect executive session do we know if there is a copy of those anywhere?

Ms. Bowman – in the Town Clerk's office – I had four or five other meeting minutes to bring up but see that they have been changed.

Mr. Phillips – we addressed this and tried to address in a nice manner with both parties back in September. I think everybody agreed there were issues with the minutes and everybody was going to work together on that. Everything was going to be smooth and good.

Ms. Bowman – and Town Counsel gave us instructions on the procedures and when a Chairman refuses to acknowledge or let people know what the redlines are. If you said something in minutes and you feel it is really important do you think it should be in the meeting minutes?

Mr. Phillips - if one person sees it one way and the entire board sees it some other way, they are what they are. If the Board approves them then they are approved.

Ms. Bowman - but if you said it and you want it in the minutes would you accept that?

Mr. Phillips - if the balance of the board votes for the meeting minutes, then that is what it is.

Ms. McKnight – because my advice has been referred to I will state that Mr. Chevalier summary was correct in that when it came to the clerk who prepares the minutes sending the draft minutes to the members of the Board so that the members of the Board can be prepared to deliberate on those changes and the deliberation should take place at the meeting. Minutes are approved by vote on a proper motion and seconded at a meeting with a quorum present by a majority of those present at that meeting.

Mr. McCormick – minutes are supposed to reflect what?

Ms. McKnight – a summary of what occurred - minutes need not be a verbatim report of everything that was said at every meeting and reflects the decisions made at the meeting.

Ms. Bowman – to Mr. McCormick if you said something at a meeting and you felt it was really important for the town to know about this and the rest of your board never saw your suggestion and it was not brought to their attention would you insist that it be put in the meeting minutes?

Mr. McCormick – I may request that. If the other members did not hear it, it would be their duty to say no.

Mr. Phillips – we have draft minutes from November 17. Mr. Chevalier asks for a motion to accept. Ms. Isgro said she never received it. Then he asks for a second motion - Is that accurate?

Ms. Deschenes – yes, it is accurate.

Mr. Witkus – it is accurate.

Mr. McCormick to the ZBA – each of you do you feel that Mr. Chevalier is disrespectful as Chairman of the ZBA?

Mr. Colangelo – he has shouted, shown some disrespect and for the most part he has been a competent chairman.

Ms. Deschenes – he can get out of control.

Mr. O'Brien – I was not at the meetings where this occurred, but I find that he has been fully respectful at every meeting I have been at.

Mr. Witkus – he is down to earth, earthy kind of guy, a little bit disrespectful. He doesn't mean it and should apologize.

Mr. Hennessey - we had a rocky start with the Oakdale thing, did a horrible job on that but things have gotten better since then.

Mr. McCormick to the members of the ZBA. Do you believe Mr. Chevalier has made false statements this evening about anything.

Mr. Colangelo – no, Ms. Deschenes – no, Mr. O'Brien – no, Mr. Witkus – yes, Mr. Hennessey – not to my knowledge.

Mr. McCormick – to the members of the ZBA – as Chairman has he followed the process we agreed to on September 2 concerning approving the minutes of the meeting?

Mr. Colangelo – yes, Ms. Deschenes – yes, Mr. O'Brien – yes, Mr. Witkus – yes, Mr. Hennessey – yes.

Ms. Isgro – would like to clarify that the process we were asked to follow was to entertain a discussion of any requested amended minutes. The first outward action I took since the joint meeting was to request that my statements whether the whole thing was considered or not were put in there and not one thing was consider for a vote or discussion. This is not whether or not the members said it did happen that way because it was never brought to the table.

Mr. McCormick – nothing has been voted it can be changed or not changed.

Ms. Isgro – the Chairman complains that I did something wrong. In following the proper process that would say that he allowed a discussion on the red-lined changes. He never allowed that discussion or a motion. He wanted a motion to accept the minutes without any changes.

Mr. McCormick – he asked for a motion to approve, when you said you never received them to review and he gave you a copy. When a Selectman makes a motion to amend something in the minutes, I do not receive a notice ahead of time from them. I will bring it up at the meeting and we have made changes to our minutes.

Ms. Isgro – that is what I did.

Mr. McCormick – there was no motion made. All you had to do was make a motion to amend and no motion was made.

Ms. Isgro – I shut the meeting down.

Mr. McCormick – no motion was made.

Ms. Isgro – final statements -

Ms. Isgro – I feel as though Mr. Chevalier has misrepresented himself in how he conducts his meetings and the activity that took place. The charges he is denying as far as being disrespectful to a member. He has been disrespectful to me and members of the public are offended by that. I feel as though members who were not at these meetings that he is repudiating the charges on should not be

commenting. We have a small window of what you are here to review since September 2. He shut the meeting down and turned his back on the Board and on the process and vacated the role. I ask that you consider what he did offensive to members of the Board and I said I did not initiate removal and hopefully I have traveled forward. I do not think that you now say maybe Ms. Isgro does not want to remove you and that gives room for leniency. I would have liked to have seen us work this out on our own and not rely on the Board of Selectmen. I feel as though he should be held accountable for his actions and I respectfully hope that you consider that when you render your decision.

Mr. Chevalier – final statements -

My recollection with Brenda Bowman on the executive session minutes from 2008 with Mr. Lever it was in litigation and that is my recollection. I do recall when we went through the old minutes this started long before Ms. Isgro got involved. The Town Clerk and I were going over these things comparing her postings against the decisions to cross reference. There was one meeting when we went into executive session and we were not going back out and in the actual public record we didn't realize there should have been a record of that open session. As of September 2 all those little things were taken care of. The three year old minutes we did not bring them up, those were brought up by Ms. Bowman and Ms. Isgro. There was no reason for us to go back. I do not know the problems with Heritage Lane. With regard to changes, when a member red lines changes it is up to that member to bring those changes and make an amendment. Those changes are sent to the clerk, not to the members. We do not want to be accused of violating the open meeting law with regard to email. Meeting minutes are a snip it of what happens at a meeting and not a transcript. In the last 20 years of the ZBA, only three people wrote decisions other than Town Counsel and they are, Danny Mullen, Matt and myself. Those decisions are written with detail and have filing deadlines. If there is any decision not on file with the Town Clerk then it is not a contract until we issue the decision. If we do not render a decision something would automatically be approved. If the Board of Selectmen does not feel I am doing an adequate job I would be happy to resign. I am passionate and try to keep the meeting going and if that is a fault of mine I accept it.

Motion Mr. Pruneau to close the public hearing, seconded by Mr. Quist, all in favor.

Mr. McCormick recommends the Board deal with the two new business items and following that discussion they will begin deliberations on the two complaints.

NEW BUSINESS (cont.)

1. Request for Common Victuallar License for Il Forno, 65 West Boylston Street

Mr. McCormick recused himself. Michael Mohamed, owner of four Il Forno Restaurants, joined the Board. He is proposing opening at restaurant at the former MacDonald's site. Mr. Gaumond reported that the applicant is in compliance with the Police Chief, Fire Chief, Treasurer/Tax Collector, Sewer Department, Building Inspector and Board of Health. Mr. Mohamed plans to open by mid March and he serves Italian cuisine in addition to brick oven pizza. He has been in business since 1992 with restaurants in Fitchburg, Gardner, Westborough and Acton. He allows bring your own bottle and all staff is TIPS certified. It is a family restaurant and he has never had any issue or problem. He has already notified the Police Chief that he intends to allow bring your own bottle.

Motion Mr. Phillips to approve a Common Victuallar License for Il Forno, seconded by Mr. Rucho, all in favor.

2. Request for Entertainment License from Deric Partnership, 555 Prospect Street

Mr. Pruneau recused himself. Eric Pearson of Deric Partnership joined the Board. He would like to hold a series of low key family venues on the lawn area next to the Bicentennial Trolley. It would be the Pinecroft Family Concert Series on Saturdays in July and August from 5:00 to 7:00 p.m. They would have a magician or puppet show instead of musical performance, although music would be preferred with venues free to all and no alcoholic beverage prohibited. He holds a Beer and Wine Common Victualler License and has had no issues for the seven years he has held the license.

Mr. Phillips asked if there is a fence around the property. Mr. Pearson indicated that there was and the area to be used would be the lawn area. Mr. Gaumond noted that the Beer and Wine Common Victualler License currently issued to Pinecroft Restaurant does have a stipulation that no entertainment license would be issued for that premises. This license request is on another parcel of land. The premises is in compliance with the Police Chief, Fire Chief, Treasurer/Tax Collector, Sewer Department, Building Inspector and Board of Health.

Motion Mr. Rucho to grant an Entertainment License to Deric Partnership for 555 Prospect Street for Saturdays in July and August from 5:00 to 7:00 p.m. Entertainment would consist of a magician or puppet show instead of small ensemble (less than 10 performers) musical performance, seconded by Mr. Quist.

Mr. Phillips asked if we were obligated to notify the abutters of the license request. Mr. Gaumond explained that the notification of abutters pertains to liquor license requests. Mr. Quist voiced concern with limited parking and asked Mr. Pearson if he foresees the parking lot being filled with patrons for the ice cream/restaurant next door. Mr. Pearson does not see this placing a lot of people in the parking lot as the lot is typically busy from 7:00 to 9:00 p.m. Vote on the motion – all in favor.

Deliberation on Ms. Isgro

In regards to the minutes and to the future it is confusing to Mr. Rucho that they are using a red-lined version of minutes to bring to the meeting and recommends using italics or bold as the color of the red-lined version will not copy. Ms. McKnight feels there may have been a misunderstanding because it is certainly not expected that the Clerk is going to make changes based on the red-lined version brought to her. Changes should be deliberated at the meeting and upon a motion by the member you would like the minutes amended. The red lined minutes in a package ahead of time is not a violation and it could help so when the minutes come the other members would have the advantage of seeing them. Mr. Pruneau thinks there is lot of confusion on how Ms. Isgro is trying to treat the acceptance of the minutes. He thinks that has caused confusion in her mind just because she red lines she feels the red lined language is accepted. Sometimes Mr. Phillips picks up the newspaper and reads about some of the things going on in other communities and says I am glad that is not our town and now we are in that same position. The charge is something that impacts the way the ZBA is running and all the members of the ZBA had the same conclusion that it is affecting the way the ZBA is running, and in Mr. Phillips' opinion it is disruption.

Mr. Quist stated that this remind him of a book he read entitled Man are from Mars and Women are from Venus. Are the actions cause for dismissal? Should we give it another try? Mr. Witkus stated that the ZBA can probably straighten this out.

Mr. Rucho recommends giving the ZBA clarification on the minutes process and give them six months to work out the issues. If it becomes a bigger issue, then we decide on what should happen. We should clarify how they should accept the minutes. He also feels these issues would be eliminated if the ZBA meetings were taped.

Mr. McCormick stated that when he first came to the meeting he had no idea how he was going to decide the issue. He also takes Mr. Hennessey's comments that she continues to raise issues. Mr.

McCormick questions, does it mean we should remove her from office? He thinks it is a radical thing. It should be able to work better than it is. In September we said this is how it should work. It obviously is not working. It seems that Ms. Isgro continues to ask if her red line changes are in the minutes. I do not believe she understands the concept on the changing of the minutes of the meetings. In the October 15th minutes the whole minutes have been changed.

Mr. Phillips stated that a lot of what he put credit in was the questions asked of the other ZBA members. He thinks this has affected the ZBA and he does not know how long we have to babysit a member of the ZBA if they have been a member for seven years. He also questioned somebody finding an issue, which happened four years ago and he does not know what the agenda is, but he doesn't think it is all to do with meeting minutes. Mr. Quist recommends the ZBA record the meetings and with the assistance of Town Counsel have a guidelines on how to make changes to minutes.

Ms. McKnight did provide that and offered to do a follow up on getting from draft to final approved minutes. The first question is are the charges made valid and were they proven by the testimony tonight and if so is the sufficient cause? The Attorney for Ms. Isgro explained there is no case law on this. It comes down to, is it rational to remove a person from office if the charges are in your mind proven.

Motion Mr. Phillips to find in favor of the charge that she continues to raise the frustration level of the ZBA, seconded by Mr. Pruneau. Mr. McCormick noted that he asked every member of the ZBA if it was a problem they all replied in the affirmative. Vote on the motion – all in favor.

Mr. McCormick questioned whether it is a reasonable reason to remove Ms. Isgro from office. Mr. Rucho noted that she has been on the ZBA for seven years and we do not have people knocking down the door to serve on committees. He suggested letting it go for six months and clarifying what needs to be done and if there is an issue the Board can do something. Mr. Phillips stated that this could be one of the reasons why we do not have people coming in to serve on the committee. Mr. Pruneau spent one year as an alternate on the ZBA and stated that it is not an easy situation to deal with 40B and side problems.

Mr. McCormick suggested postponing the issue for six month and not have another hearing. Ms. McKnight explained that you would have to have another hearing as there might be additional evidence put before the Board.

Mr. McCormick suggested a six-month probation, or we instruct the ZBA to tape record every meeting. Ms. McKnight noted that it could be a suggestion to the ZBA that they tape their minutes, you cannot dictate the practices of the ZBA. You have to give people due process, and it is certainly possible that if you had another hearing in six months it would be faster than the hearing held this evening. Mr. Rucho thinks maybe a six-month probation as he would like to get them to try to work it out.

Mr. McCormick would entertain a motion to remove Ms. Isgro from the ZBA based on the findings tonight. Ms. McKnight advised that the Board of Selectmen can make suggestions.

Motion Mr. Phillips to remove Linda Isgro from the ZBA, seconded by Mr. Pruneau. Vote on the motion – Messrs. Pruneau and Phillips yes; Messrs. McCormick, Rucho and Quist no.

Deliberation on Mr. Chevalier

Mr. McCormick stated the second issue deals with the charges against Mr. Chevalier. Did he fail to keep his promise to follow the process as agreed with Town Counsel allowing members to make redline changes with draft minutes, threaten to have the Board of Selectmen remove Ms. Isgro from the Board, continue to shout and insult members of the ZBA, and he yelled at Ms. Isgro at open meetings. Did Ms. Isgro prove those issues?

With regard to the draft minutes, Mr. Phillips stated that there was a motion requested two times and there was no motion made. On the second charge, Mr. Chevalier did tell Ms. Isgro he was going to have her removed by the Board of Selectmen. On the third charge, Mr. Phillips feels it is open-ended, there are things he heard that he probably shouldn't have heard because it was illegal. On the forth charge, he would assume that Mr. Chevalier probably did yell at Ms. Isgro.

Mr. Rucho feels Mr. Chevalier did allow Ms. Isgro to make changes in the minutes and he did ask for a motion, Mr. Chevalier did admit to the second charge.

Motion Mr. Phillips to find that Mr. Chevalier did tell Ms. Isgro he was going to have her removed by the Board of Selectmen and he did yell at Ms. Isgro, seconded by Mr. Rucho, all in favor.

Mr. McCormick asked if it reasonable to remove Mr. Chevalier from the ZBA. Mr. Phillips does not believe so.

Motion Mr. Phillips not to remove Mr. Chevalier from the ZBA, seconded by Mr. Pruneau, all in favor.

Mr. Rucho would like either Mr. Gaumond or Town Counsel to clarify how the ZBA is approving meeting minutes. Mr. McCormick entertained proposed suggestions and he recommends sending a two-man delegation of the Selectmen to the ZBA to work on how they accept their minutes and to let them know that the Selectmen will be monitoring this as they hope things work out well in the future. Mr. Phillips thinks the Selectmen should come up with suggestions on what they can do to help them work together. List what our expectations are and what we expect to be followed. Suggestions will be forwarded to Mr. Gaumond by next Monday and something will be put together by the meeting next week. Mr. Rucho is not sure that a tape recorder would work as the quality of the voice being recorded might not be clear.

With no further business to come before the Board, motion Mr. Rucho at 10:54 p.m. to adjourn, seconded by Mr. Phillips, all in favor.

Respectfully submitted,

Approved: March 17, 2010

Nancy E. Lucier

Kevin M. McCormick, Chairman

Valmore H. Pruneau, Jr., Vice Chairman

Allen R. Phillips, Clerk

Christopher A. Rucho, Selectman

Steven Quist, Selectman