

Members present:     John W. Hadley                   Christopher A. Rucho  
                                 Kevin M. McCormick               Siobhan M. Bohnson  
   Patrick J. Crowley

Mr. Hadley convened the meeting at 6:40 p.m.

Motion Mr. Crowley at 6:40 p.m. for the Board to enter into executive session under the provisions of Massachusetts General Laws, Chapter 30a, Section 21(A), Part 3 to discuss strategy with respect to collective bargaining if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body (DPW negotiations), seconded by Mr. Rucho. The Chair so declared and announced that the Board would be returning to open session. Roll call vote: Ms. Bohnson yes, Mr. Hadley yes, Mr. Crowley yes, Mr. Rucho yes, Mr. McCormick yes.

Motion Mr. Rucho at 7:00 p.m. to come out of executive session, seconded by Mr. Crowley. Roll call vote: Ms. Bohnson yes, Mr. Crowley yes, Mr. Rucho yes, Mr. Hadley yes, Mr. McCormick yes.

The Board reconvened at 7:00 p.m. and Mr. Hadley announced that maximum occupancy in the meeting room is 49. Should we get to that number attendees may be asked to step into the hallway so we won't be over capacity.

Read and acceptance of Minutes from Previous Meeting:

Motion Ms. Bohnson to approve the regular session meeting minutes of August 5, 2015, seconded by Mr. McCormick, all in favor.

Joint Meeting with Cemetery Trustees to Fill Vacancy Until the Next Annual Election     Scheduled for June 7, 2016

Mr. Hadley read the following notice. Notice is hereby given that the Board of Selectmen shall be accepting applications and letters of interest from registered voters of the Town of West Boylston to fill the position of Cemetery Trustee until the June 7, 2016 Annual Town Election. Applications or letters of interest will be accepted at or addressed to: Board of Selectmen, 140 Worcester Street, West Boylston, MA 01583. Applications will be accepted until 6:30 p.m. on August 19, 2015, and the Board of Selectmen and the Cemetery Trustees will meet at 7:05 p.m. in the Selectmen's Meeting Room of town hall, 140 Worcester Street, to interview candidates and jointly appoint a candidate to fill the vacancy until the next Annual Election. For additional information please contact the Office of the Board of Selectmen at 774.261.4012. John W. Hadley, Chairman, Board of Selectmen posted July 27, 2015.

Cemetery Trustees John McCormick and Peter Rotando joined the Board. Applicant Gary Flynn, 416 Prospect Street came forward. Mr. McCormick, Chairman of the Trustees asked what qualities can you bring to the Board of Cemetery Trustees. Mr. Flynn states that he has numerous years in the turf grass industry and was the parks superintendent for ten years. He would like to carry on what that late Aaron Goodale started. Mr. Rotando explained that some times they are in need of people to work and if we have a situation where we have to have somebody get on the mower, are you able to do that. Mr. Flynn replied yes. Mr. McCormick added that they are pretty tight with money, we do not spent a lot of it. The town gives us money for the superintendent's salary. Do you have any ideas on how we could make more money to save. Mr. Flynn would look to see how we are investing. Mr. McCormick explained that the Town Accountant invests and tells us how much we

have. Mr. Flynn asked if we are adding lots. Mr. McCormick added that we will come back to the town in the next few years to see what land we have, which could be developed. In the Cemetery we have added on and the second section is filling and sections three and four have not yet been laid out. In the future we will be looking for more land. Many of those lots were sold to families. Mr. Flynn assumes that perpetual care has to stay at the price it was sold. Mr. McCormick explained that the cost has not gone up because people do not have a lot of money and a portion goes towards perpetual care and a portion to Sale of Lots account. We used to take in \$20,000 a year in interest and now we get \$6,000. Mr. Flynn suggested auctioning off a lot. Mr. Rotando added that when you have 40 commitments a year the cemetery fills up fast. Mr. Flynn suggested adding on to the cemetery off of Route 110. Mr. McCormick advised that it is owned by the Catholic Church and surrounded by DCR property. We only own Mount Vernon Cemetery.

Ms. Bohnson asked what do you see is the main role of a Cemetery Trustee. Mr. Flynn replied to try to follow in Aaron Goodale's footsteps and to make it aesthetically sound and see it keep going on the same way it is. It is very well kept. Mr. Rucho asked would you, if you were a member of the Trustees, be open to changing the position to an appointed position and merge services with the DPW to save money. Mr. Flynn replied yes, if we could save money that way. In the long run he would be in favor of that.

Applicant David Lindberg, 47 Hillside Village Drive joined the Board. Mr. McCormick asked what qualities can you bring to the Cemetery Trustees that we may not have now. Mr. Lindberg states that his background is 40 years of organizational development and team building. Prior experience serving the town as the police chief and a Selectman has given him an understanding of how the town works. Mr. Rotando asked if necessary, could you do physical work. Mr. Lindberg replied that he could rake and mow. Ms. Bohnson asked what do you see as the major role of the Trustees. Mr. Lindberg replied, the overall supervision of the Cemetery policies and procedures, it is a well run department. Mr. Rucho asked would you be open to discuss a possible merger with the DPW and changing the position to an appointed committee to retain services and save money. Mr. Lindberg would be open to discussion that. The budget this year is \$60,000 and most is salary. It doesn't say how much is savings.

Applicant Fred Palmer is not in attendance.

Applicant Val Pruneau, 29 Pinecroft Ave. joined the Board. Mr. McCormick asked what qualities can you bring to the Cemetery Trustees that we do not have now. Mr. Pruneau has owned a business for 45 years in construction and has experience with roads and site development, which could help with future development. Mr. Rotando asked would you be capable of physical labor. Mr. Pruneau replied no problem, still doing it. Mr. Bohnson asked what do you feel the main role is of this position. Mr. Pruneau would like them to continue with the restoration project and the possibility of developing some land for cremations to maximize the space. He would like to explore that. Mr. Rucho asked if he would consider, to save money and keep services, a merger with the DPW. Mr. Pruneau feels the ongoing services they have right now with Rotti and Edilberti work out well, If that changed he would look at a different model. Mr. Rucho asked if he would consider running for the position at the June election. Mr. Pruneau replied absolutely. Mr. Hadley asked if Flynn he would run and he replied absolutely.

With no other candidates coming forward, the floor was opened up to nominations.

Mr. McCormick nominated David Lindberg, seconded by Mr. Rotando. Ms. Bohnson commented that she is highly impressed with the amount of people who came forward and she hopes that they would consider running again in the future. Mr. Crowley would defer to the Cemetery Trustees for nominations.

Mr. Rucho nominated Gary Flynn, seconded by Mr. Hadley. Mr. McCormick nominated Mr. Pruneau, seconded by Ms. Bohnson

Roll call vote: Mr. John McCormick votes for David Lindberg, Mr. Rotando votes for David Lindberg, Mr. Kevin McCormick votes for Val Pruneau, Ms. Bohnson votes for David Lindberg, Mr. Hadley votes for Gary Flynn, Mr. Crowley votes for David Lindberg and Mr. Rucho votes for Gary Flynn. Mr. Lindberg wins the seat.

John Scannell, Regional Director, Department of Conservation & Recreation – Update On Wachusett Watershed Regional Recycling Center

Mr. Scannell joined the Board and reports that things continue to run well at the Center, which is manned day to day by volunteers. They have seen continued usage without issue and since last year have increased their hours. Wachusett Earth Day has entered into a new agreement to run the site. Mr. Rucho noted that at his last visit, Mr. Scannell discussed opening the Center up to memberships. Mr. Scannell reports that at this point there is not a lot of conversation happening on that. In regards to the seven towns, Mr. Rucho has gone to the Center and it runs well, however, they never ask him for identification. Mr. Scannell will check on that as it is policy that they should be asking. He will bring it up. Ms. Bohnson asked if they have continued to see usage grow. Mr. Scannell stated that it is not growing as rapidly, however, there has been an increase year to year in the number of trips and users.

**OLD BUSINESS**

1. Installation of 'no jake brake' signs

Chief Minnich joined the Board. He has had conversations with different people and did send a letter to the Board on his point of view. On state roads those signs would be illegal. He spoke with people who drive the big rigs and they are totally against it as it is a safety issue and dangerous not to use them. There was a concern at the Maple/Shrewsbury Streets split. He purchased some mobile speed limit signs which will tell him how many vehicles go by and their speed. He will continue to research and report back. He added that it is a safety mechanism.

**NEW BUSINESS**

1. Concurrence on the appointment of John Schlichte, Central Street, as the PEG Coordinator effective August 20, 2015 for a term to expire on June 30, 2016 with a stipend of \$250.00 a month.

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

2. Consider accepting the following free will donation for the Bandstand Fund on behalf of the town: \$184.11 from August 3<sup>rd</sup> concert and \$169.27 from August 9<sup>th</sup> concert

Motion Mr. Crowley to accept the donations, seconded by Mr. Rucho, all in favor.

3. Consider ratifying a one-year contract by and between the Teamsters Union, Local #170 and the Town of West Boylston

Motion Mr. McCormick to sign the one-year contract, seconded by Ms. Bohnson, all in favor.

Public Hearing In Accordance With Article XXIII, Public Hearings and Notice: to Consider Amendments to Policy L-21, Use of the Town Common Signboard Policy and Policy L-18, Beautification of Town Squares and Islands Policy

Mr. Hadley opened the public hearing and read the following notice. Public notice is hereby given, in conformity with the requirements of the General Bylaws of the Town of West Boylston,

ARTICLE XXIII - PUBLIC HEARING AND NOTICE, that the Board of Selectmen will meet on Wednesday, August 19, 2015, at 7:30 p.m. for the purpose of considering amendments to Policy L-21, Use of the Town Common Signboard Policy and Policy L-18, Beautification of Town Squares and Islands Policy. The meeting will be held in the Selectmen's Meeting Room, #210 of the town offices located at 140 Worcester Street, West Boylston. For additional information, or to review the proposed information, please contact the Office of the Board of Selectmen/Town Administrator at 774.261.4012. All interested persons, groups, and agencies are invited to attend. John W. Hadley, Chairman posted August 4 and, 11, 2015.

At the Board's request, Ms. Lucier has amended the Policy L-18, Beautification of Town Squares and Islands Policy to reinforce the language on planting and maintenance of the island/square, added in the new island at Prospect/Goodale, removed the island at Woodland/Prospect and added in the cement island at Maple/Shrewsbury with dimensions. Policy L-21, Use of the Town Common Signboard has been amended to reflect that the Office of the Board of Selectmen/Town Administrator will be responsible for the signboard and software for programing will be installed on the computer for the Emergency Management Director who will be allowed to post messages during emergency situations only.

Mr. Rucho voiced concern with the language on maintenance of the island as it related to the cement island as it would not require weeding and you couldn't use mulch. Mr. McCormick noted that you would still need to weed the potted plants and you could add mulch. The policy also requires the approval of the DPW Director to ensure that they do not present a visual hazard. Mr. Hadley doesn't think the policy should have to include language of what we will be on each island. Mr. Bohnson added that the DPW Director would be working with the adoptees of the island/squares. Mr. Hadley pointed out that he would also be responsible if there was a problem.

Mr. Purcell reports that he has sent one letter out in response to a complaint about an island, which is consistent with the policy. He allowed for a one week extension for a follow up.

Mr. Hadley opened the floor up to comments from residents. Chris Herbert, 370 Worcester Street asked on the cement island if someone were to hit the barrel would there be an obligation to the person who put the barrel there. Mr. Purcell advised that it would be on the town. It was also noted that provided they had approval by the DPW Director.

Motion Mr. McCormick to close the public hearing, seconded by Ms. Bohnson, all in favor.

Motion Mr. McCormick to accept the policies as amended, seconded by Mr. Rucho, all in favor.

## **OLD BUSINESS (cont.)**

### **2. Wayne's Weaponry**

Carolyn Murray, Town Counsel joined the Board along with Building Inspector Chris Lund and Police Chief Dennis Minnich. Mr. Lund spoke to the zoning on the property and displayed a map of the area. He explained that 241 Laurel Street is owned by a Trust of which Wayne Almstrom is the sole trustee consists of 12.6 acres. There is a land locked parcel at the back of the parcel consisting of 9.5 acres. The firing range is on the 241 parcel and the 251 is the primary single family residence on 1.27 acres. Combined Almstrom owned acreage is 23.37 acres. The DCR land around the Almstrom property is outlined in green and cannot be built upon. A couple of parcels are landlocked. There is a parcel next door privately owned which is in Chapter land for forestry. The town owns a small strip of property. There are not a lot of houses, low density. The land that is in forestry could be built on, but would require the owner paying back taxes and the town has a right of first refusal. H-7 on the map is

an access gate to the DCR land. It is about 1,000 feet off the corner of the Almstrom property and this is just over the Holden line. Total town and DCR land north of the Quinapoxet is 98 acres and total landlocked and DCR land south of the Quinapoxet is 435 acres, total of 533 acres.

Mr. Lund went on to report that we have households all along through Laurel Street. South of that is the Malden Street, Pine Arden Drive and Townsend Drive area. The last page is from DCR and it relates to hunting rights. The Laurel Street firing range, all land highlighted in pink denotes land the DCR allowed people to hunt on. The gate is 1,000 feet west of the Almstrom property. The rail trail goes through that land and there are warning signs to folks that they have entered into a hunting area. Packet #2 includes the original Special Permit and people are focusing on 6 (a) is not substantially detrimental to the neighborhood and 6(b) it complies with Section 3.5 A&B Town of West Boylston Home Occupation, Zoning Bylaws. Also included are the minutes of that meeting where KJ. Freeman discussed signs and the alarm system in relation to a possible break in. She also asked if there is a firing range behind the home. Mr. Lund added, that still stands that the firing range is at the back. Another question posed in those minutes came from A. Ward. She stated that firearms cannot be released within 500 feet of any other property. She stated that W. Almstrom's father has a "target range" and asked if W. Almstrom is within the proper distance. She is also concerned about loaded guns and ammunition stored in the home. In response, W. Almstrom stated that he is within the required range for a firing range. It was explained that the guns and ammunition are stored separately. Almstrom also stated that he has welded bars on the cellar windows to deter burglars. Mr. Lund reports that those were the referenced he was able to find. Also included in the packet is a complaint form for an alleged violation of the Home Occupation Bylaw, noise in excess of what is normal in the neighborhood and the home occupation shall not create a hazard to persons or property resulting in electrical interference or become a nuisance.

Mr. Lund provided history on the bylaw. In June of 1990 the town bylaw first saw Recreational Use, 2.5 years prior to the issuance of the Special Permit for the gun shop. It reads just as it does today, 1967 to 1989, the closest use category is 3.23 (3) Business Use – theatres, bowling alleys, skating rinks and similar commercial amusement enterprises. Evidence presented relative to what the Order was against included a commercial residential outdoor user Clover Firearms Group was having classes at the rage denoted Wayne's Weaponry as the location. That is when Mr. Lund determined that people knew of the range only via the business. Commercial range use on the parcel owned by the trust is not customarily incidental to the primary use, accessory to a single family residence. The Zoning District at the time the use began was single residence. There was never an approval sought through the Zoning Board of Appeals for an outdoor commercial recreational use variance as it is not allowed by right. An Order was hand delivered on July 31<sup>st</sup> on the outdoor commercial recreational use in a single residence district.

The last page of the report provides a brief history which started on March 2, 2015 with a phone call from Dr. Steven Davis relative to a complaint of noise. March 3, 2015 follow up complaint from Dr. Steven Davis about noise and stating that he was not seeking to close the business. March 5 and 10 there were complaints and the Almstroms were in Florida. In April Mr. Lund visited the site and was able to meet with Wayne and saw the shop. He saw no violation relative to the repair shop. He looked at the firing range and asked about compromise. Wayne was going to put up a barricade to lessen the sound. Mr. Lund emailed the parties who had complained to let them know of the compromise and then he received an email from Mr. Bilotta, member of the complainant group that they were not happy with the compromise. Mr. Lund went back over to Wayne's and he had already purchased the posts. A second compromise was presented which he gave to Wayne and he was going to review with his attorney. Then Mr. Lund received a letter from Bowditch & Dewey

requesting immediate shut down of the range. They were looking for a complete cease and desist, after that we drafted the order, had town counsel review it and then we issued the order.

Carolyn Murray believes Mr. Lund covered everything pretty well. Mr. Crowley wants to make sure that we all understand that the Order is because it is a zoning bylaw. Mr. Lund replied correct, he cannot operate a commercial range. It doesn't say anything about firing his own weapon with friends or family. Doug Miller, 204 Laurel Street states that when he heard Wayne's was shut down he couldn't understand. He has been shooting there since before he had his gun shop and no one has ever complained. He is a neighbor and if there was a hearing why wasn't he notified. To him, he finds all of this to be a waste of money for something that was already existing. It is like somebody purchased a house next to the Sterling Airport and then you complain because you hear airplanes fly around, this is stupidity. He would hope the Board of Selectmen is not that stupid and has some common sense. Wayne has never charged anybody for using his range. You can buy a gun or try a gun and buy ammunition from him. This is what any gun shop would do. This is somebody trying to make a mountain out of a molehill. He misses the sound of the guns and thinks the Board of Selectmen should give him a variance. Mr. Crowley clarified that no variance has been applied for.

Mr. McCormick asked if I go to Wayne's and buy a gun, can I shoot it on the range. Ms. Murray replied it is arguably part of the commercial use. Commercial use is not allowed in a single residence zone. The special permit is for one parcel and the range is another. Somebody could make a reasonable argument that if somebody wants to purchase a gun and try it, it is related to his commercial use. One could also argue it is Wayne's allowing somebody on his property and he is not charging a special fee. Do you buy the gun without trying it, it is an argument that could be made either way.

Mr. Crowley asked about case law. Ms. Murray explained that there is not a lot of case law on the commercial component no distinction between commercial and recreational versus recreational nature or using somebody's property without a fee being charged. In the firearms statute if you are 500' from a dwelling or 150' from a paved road and you have the permission from the property owner you can do that. If you had a prohibition against firing ranges in a single residence district we might still be having the same discussion. One of the cases she read was the Northboro case. It has some language that talks about a recreational use of people using their property. We may all have a different idea of what we do in our back yards some people may target shoot or have a firing range if they have adequate back yards. Mr. McCormick asked you gave Wayne's Weaponry a Cease and Desist because of the Cloverleaf use of the fire range. Mr. Lund replied the Cloverleaf was more of a cause to issue than the individual use because somebody was making money off of holding classes. It is not something you normally see in the backyard of single family residence. Mr. McCormick notes that it says in the Special Permit under 6(a) is not substantially detrimental to the neighborhood. How do you determine neighborhood. I live on Prescott Street and I hear the guns. I do not consider myself in Wayne's neighborhood. How do you determine neighborhood? Mr. Lund replied it is case by case. He would look for complaints in the immediate vicinity of the property. For Special Permit notification, immediate area is considered a 300-foot radius, and it is those abutters who were notified when the special permit was issued. They are not the same folks complaining.

Jill Wildt, Townsend Drive would like to make a motion to pay back Wayne for his attorneys fees. You put a cease and desist on a business and cost a business owner their livelihood. She lives in that neighborhood. She was in realtor in California and we had to do our homework. You came in and shut a business down without doing your homework. She understands it took seven signatures to stop the business. No one knew about this in the town and it was on FaceBook. We didn't know what was going on. Ms. Wildt added that as a business owner thinking about coming into town do you think

I would come here. Because if you didn't like my business you could shut me down. She thinks tax dollars should be used to pay Wayne's lawyer, it is a frivolous action taken against a business owner. He has never once charged her and the classes are safety class. She has never been charged in 13 years.

Ed George, counsel for Wayne's, Woburn, Massachusetts has been with Mary Almstrom looking at this range. He spoke with Wayne who is in Canada and it is troublesome. To him this is a business and property is an issue before the Board of Selectmen and he has a due process problem with it. There is a statute 214(7B). This case is about noise, the Doctor who initiated lives a mile away and bought the house long after Wayne's Weaponry was established and long after the range was established. The gun shop is on the one acre site and the house is on one acre site. The shooting range is informal and has been there for a long time. Anybody who knows the shooting range can see the back stop has been used for many years Mrs. Almstrom has told him that Wayne has shot there for over 40 years. Forty years is before the town's zoning bylaws and 214(7B) says notwithstanding the provisions of any general or special law, rule or regulation to the contrary, no owner of a rifle, pistol, silhouette, skeet, trap, blackpowder, or other similar range shall be liable in any civil action or criminal prosecution in any matter relating to noise or noise pollution resulting from use of the range, provided said owner of the range was in compliance with any applicable noise control law, ordinance or by-laws in existence at the time of the construction of such range. No owner shall be liable in any action for nuisance, and no court shall enjoin the use or operation of said range on the basis of noise or noise pollution, provided said owner was in compliance with any noise control law, ordinance or by-laws in existence at the time of the construction of the range.

Mr. George added that when the statute was passed no one was talking about indoor ranges, they were talking about outdoor ranges who had firing ranges and back stops. There is a roar and it comes from I-190, the highway had background noise. This is not brought because of noise, it is brought because of the fact that some people do not like guns or want guns there. There is no way that you can prevent Wayne from going out and shooting and there is no way that you can prevent somebody from shooting on the range as it was there before the bylaws. What you would have to do to make that argument is prove there is some financial gain by the use of the range. Does he charge more money for the guns and ammunition than other gun dealers, or does he charge less. Do people buying guns from him because they can shoot on the range or do they go there because he has better prices or they like him. Most people go to a small business because they like them. The range is not part of the business. This Order should be voided because it is not valid. I have seen this before where people have tried to shut down a range. It is a personal thing and they do not want the gun range there.

Mr. McCormick wants to make it clear that the Board is not holding a hearing. They are just discussing what is going on. Mr. George noted that Mr. Almstrom is not here. Mr. Lund clarified that no Cease and Desist was issued for the business, the Order was drafted for 241 Laurel Street, Almstrom Realty Trust, c/o Wayne Almstrom. That parcel is not to be used commercially and he can use it for recreational use. Mr. McCormick asked if I buy a gun and ammunition can I go over there and shoot the gun. Mr. Lund replied correct, you could do that. Mr. McCormick feels like he is at the Salem Witch Trial with Wayne being considered the witch and we, the Board of Selectmen have to decide if we are going to burn him at the stake. He understands that if he is using the property commercially that is wrong, however, as long as he is using it for recreation purposes what is stopping him. He doesn't see him being affected by this.

Mary Ellen Davis stated that they didn't purchase their house recently. They, along with the majority of the people who have signed the petition have lived here longer than Mr. Almstrom has. This is not about the second amendment, there are people who signed the petition who carry guns.

This is not a gun issue, it is a bylaw issue. It is about a range that was not approved. They have no fault with Wayne operating his business as defined under the bylaws. He sells guns and bullets and repairs guns. The concern is he is operating a range, legislation defines commercial, and you do not have to charge money to be defined commercial. You pay to go to the golf range but you do not pay for everything you do there. There has been no revocation of license. Her understanding is the Cease and Desist was issued by Chris Lund after consulting with Town Counsel and receiving information from Mr. Angelini who represents a large group of people. In terms of background noise from the highway, that is background noise. The bottom line is we are not arguing against the second amendment. People came here to support the second amendment, this is about a bylaw.

Sam Wildt, 22 Townsend Drive questioned why we are wasting so much the of taxpayers money. He stated that we can go to Wayne's with personal guns and ammunition and it is legal. He has lived here for 13 years and he sees we are spending a lot of money and time on something not illegal or against the bylaws and somebody has a vendetta. He questioned what are we going to do to stop this and make our city better.

Mr. Purcell explained that state laws says that when a complaint has been lodged the Building Inspector has ten days to reply. We represent all of the parties int own. He thinks the record will show he has been fairly diligent in pursuit of answers to complaints. This is an issue he predicts will be adjudicated some place else. We are fulfilling our duties under the law. The complainant sought an audience with the Board of Selectmen because they were not satisfied. This is the third meeting in six weeks. It was written up in the newspapers, there was an awareness of the meetings and people seem to be getting their facts more completed. We are doing our jobs and he resents the implication that we are not.

Julie Almstrom, Auburn states that she is a niece of Wayne's and wants to know if she can bring her pistol to the range and shoot it. Mr. Lund replied yes. Another gentleman from Westminster stated that he bought a rifle from Wayne's and asked if he would have a problem if we went there to shoot it as he doesn't want Wayne to get in trouble. Mr. Lund explained that there would be no problem. The issue was a commercial group was using the property. The gentleman also explained that no one drives past the house without checking in with Wayne, his wife, or his daughter.

George Bilotta, Malden Street asked town counsel because the rifle range is on the trustee property, who owns the range. Ms. Murray advised the trust as the lawful entity and Mr. Almstrom as the trustee. Mr. Bilotta stated that he is from the other side extremely bothered by the range, lives 1.1 to 1.3 miles from the range. There have been times when the noise has been so intense that conversations stop. He had an opportunity to communicate with their counsel and they feel allowing shooting in general on the range for commercialization is a violation. It constitutes commercial recreational use and it doesn't have to have an exchange of money. It is a violation under Section 3.2c commercial/residential use is not permitted in a single residence area. It is in violation of zoning. There are more than 50 people in this group and they have no desire for Wayne to lose his business to repair and sell guns. It is a zoning violation. They purchased their home 15 years ago and never heard anything. Five years ago it started to get louder and more frequent and it is a zoning issue and very clear in West Boylston zoning law.

Ms. Murray reports that prior to the meeting she went out to the site and met with Attorney George, Mrs. Almstrom and her two children. One of the things she learned here tonight was a statement made that there was a claim made that the range was in operation prior to the Zoning Bylaws. In 1990 the commercial residential use came into effect. The does not have any history of when it started, however, if there is evidence that it was there prior to 1990 there is an argument to be made that the firing range is pre-existing non-conforming use. There is also an argument that it could



have lost its non-conforming use. What we are hearing is a zoning issue and there is a mechanism for the neighbors to pursue that. They can request further action from the Building Inspector. If they are not happy they may appeal that determination to the ZBA and if they are still not happy they can go to court. There is no mechanism for the Board of Selectmen to take any action on this.

Mr. Crowley stated that from what he is hearing, his interpretation of the Order is for commercial use simply because of the Cloverleaf classes. Anybody who buys guns from Wayne's Weaponry can go and they can go and shoot them. Ms. Murray states it falls under lawful guests of the property owner with permission from the property owner, yes, you can. Mr. Rucho thinks it is a fine line. Without shooting maybe less people would buy guns there. Could there be an argument that you are paying to go on the range. Ms. Murray stated that short of taking a survey of people leaving the property, there is an argument to be made. This is not what I consider to be a commercial use. The Zoning Bylaws puts the interpretation on the shoulders of the building inspector. It is up to him to make that determination.

Mr. McCormick feels the building inspector has already made the determination. It cannot be used commercially, but can be used for recreation. We are spending an inordinate amount of money to handle what some people say is a zoning issue and there are many zoning issues in this town which are a lot worse than this. He thinks it is just because of noise and he doesn't want to spend any more money. He was going to make a motion that the Cease and Desist order remain for any extraordinary commercial use and Wayne's Weaponry could continue to operate. Mr. Hadley thinks we should take the advice of Town Counsel and let the building inspector deal with this.

Mary Ellen Davis asked if it is not commercial is it private. James Sweeney of Spencer, formerly lived on Webster Lake and suggests that the town needs to do what they did on Webster Lake when Waterfront Mary's went it and get a decibel unit to know the noise level. Mr. Rucho thinks the building inspector is doing what he is supposed to be doing. Mr. Hadley thanked everyone for attending the meeting.

Attorney George states as counsel they do not take the position that this was a waste of money he thinks Ms. Murray has spelled out the procedures. This is a property issue not a second amendment issue. He is aware of the tremendous efforts made by the building inspector to reach a settlement and he was told by Wayne that it was shut down. Mr. Hadley noted that the building inspector will handle any complaints going forward. Protocol for complaints going forward, Mr. Lund states that he only works 32 hours a week and doesn't have the resources to go observe every complaint. He worked with the police chief and if there is an excessive level the police chief will go and investigate. Chief Minnich will not send police officers every time someone is shooting and infringe on the rights of the property owner.

### **NEW BUSINESS (cont.)**

4. Concurrence on the following interim appointments for the Department of Public Works: Interim Director, Interim Foreman and Interim Equipment Operator/Skilled Laborer

Motion Mr. Crowley to approve the interim appointments, seconded by Ms. Bohannon. Discussion ensued with Mr. Rucho asking about time frames. Mr. Purcell advised that Mr. Kittredge would be 90 days and the town has the option to extend or reduce. The other two have that same language.

Mr. Purcell has agreed to the parameters of the DPW Study with Mark Morse. He previously worked on two other studies for the town. He understands the focus of the study to be on operation, equipment, manpower and supply lines. The contract will be before the Board at our next meeting. We will develop the ideal candidate profile for the permanent Director position. Mr. Purcell believes the

study and filling of the permanent position can be accomplished by the end of the calendar year. With regard to the temporary hirings, Mr. Purcell reports that Mr. Kittredge is very serious about the position and understands the town bylaw requires someone with an engineering background. They want to show that they can be part of the improvement of the department. Mr. Kittredge feels the need to present the members of the department as functioning folks. With regard to the interim foreman position, we interviewed three applicants and asked them 16 questions. Mrs. Lucier witnessed the interviews and we came to the conclusion that Paul Osterberg was the most qualified of the three parties. He would vacate the equipment operator position, which we would like to move Glenn Parker into. He was the only applicant who applied. The salary for the Interim Director position is a little beyond mid point between foreman and Director's salary. The other two positions were at step 5 and the new people will vault up into that step.

Ms. Bohnson asked when the new seasonal person would come in. Mr. Purcell anticipates within a month, we will advertise next week. Mr. Purcell does not have a hard date for when that person will finish and imagines that it will be once the snow hits the ground.

Vote on the motion – all in favor.

#### 5. Board of Health's recommendation on Intermunicipal Agreement with the City of Worcester

Board of Health Chairman Bob Barrell joined the Board. He reports that the Board of Health is in the process of separating from the Worcester Alliance. Back on May 26<sup>th</sup> the Alliance sent a letter increasing the fee by 55%. The Board felt we could provide the same services to the town at a reduced rate and give more local control over our Board. They intend to continue with the Alliance for three months to give us time to hire and train a person for 25-hours a week. We will be paying the new increased fee for those three months. We will have full services through November 31 from the Alliance. On December 1 they will do housing compliance issues and restaurant inspections. Going forward there will be increased expenses for the first three months, however, over all after that could save \$7,000 a year.

Ms. Bohnson asked about the 25-hour a week position. Mr. Barrell explained that the Board has always had a 25-hour a week person who works daily 7:30-12:30. Now we pay \$22.00 an hour to the Alliance. We would pay \$15.23 an hour. We will also need to keep our association with the Alliance to keep us updated on everything that goes on. Mr. Rucho asked when we went with the Alliance did we only do so because of money. Mr. Barrell clarified that we will still be part of the Alliance but at a reduced participation. The administration of the Board of Health will be funded through the town. Mr. Rucho feels the \$7,000 savings will dwindle. Mr. Barrell feels it will allow us to be in control of our own destiny and the Alliance will also increase their monthly fee from \$2,700 to \$4,200. We were the only town who participated who only had one person in their Board of Health office. For them to absorb our person they had to increase the cost to the town. Mr. Rucho asked if he felt we received better service with Worcester. Mr. Barrell believes it is beneficial to stay with the Alliance in a limited capacity for their expert information. He added that Barbara Mard, their current staff, will retire from Worcester. Mr. Crowley asked if they are taking benefits into consideration on the \$7,000 savings. Mr. Barrell is only looking at the monthly fee. Mr. Crowley pointed out that if you add in health benefits, the \$7,000 goes away. Mr. McCormick thinks it is a good idea.

Motion Ms. Bohnson to concur with the Board of Health's recommendation on the IMA, seconded by Mr. Crowley. It was clarified that we will pay the Alliance \$4,200 for three months and when we modify our use, we will pay them \$1,500 a month. Vote on the motion – all in favor.

**SELECTMAN REPORTS**

Mr. Rucho attended the presentation by the DCR on the installation of sidewalks over the causeway. He and Rep. O'Day asked about maintenance and discussed overgrown grass. A DOT representative said they will look into that. He requested a copy of the slide presentation and it was sent to Mrs. Lucier.

Mr. Rucho reports that on September 8, 7:00 p.m. Parks Facilities Committee will have an information presentation for the draft Goodale Park Master Plan in the Selectmen's Meeting Room at town hall. Mrs. Lucier will post a Board meeting should a quorum be present.

Mr. Crowley reports that he has been absent due to vacation, and he will be present on a regular Basis.

**INTERIM TOWN ADMINISTRATOR'S REPORT****1. Affordable Housing Consulting Services – Status**

Mr. Purcell reports that the transfer from Mr. Heaton to COG for Affordable Housing consulting services is complete. Mr. Heaton turned in all his paper files and downloaded everything on a thumb drive for our new COG group.

**2. Public Safety Building Window Project – Update**

We thought we were going to need two different projects for the work and as it turns out we have found one outfit which can do both.

Mr. Purcell will be meeting with a representative from Holy Cross next week.

Mr. Purcell reports that last Friday he, Mrs. Lucier, Mike Kittredge and our LEI on-call engineer went out in the field to view the there Chapter 90 projects located at Henry, Newton and Worcester Streets. We also reviewed the sidewalk project route and viewed the condition of Malden Street. LEI will do some test borings and the project will go from Crescent at Pine Arden to the end of Malden Street. We plan to send all the abutters a timeline informational mailer. We are in danger of losing the section of Malden from Goodale to the intersection of Crescent. That will be a total reclamation. Malden Street will be a 2" overlay with minor drainage work to be done by our DPW. Our objective is to get something done this season. The Crescent/Malden work might be done this season and the overlay for Malden next year. The deadline to get the sidewalk project completed is October of 2016.

**MEETINGS, INVITATIONS & ANNOUNCEMENTS**

1. September 8, 7:00 p.m. Parks Facilities Committee will have an information presentation for the draft Goodale Park Master Plan in the Selectmen's Meeting Room at town hall

**FUTURE AGENDA ITEMS**

Mr. Bohannon asked about the Pavement Management Program. Mr. Purcell explained that the draft was provided to the town for comment and will be forwarded to the Board. Mr. Purcell commented on its value being how they organized our roads.

Mr. Rucho reports that Mass Highway will have two more public hearings on the other two projects they plan to complete in town.

When we invite the legislators in we will ask Rep. O'Day for any updates on the DOT projects.

Mr. Hadley reminded everyone that there is a FISP meeting next week.

Mr. Hadley asked if the DPW intends to make the improvements to the Pinecroft Woodland Street intersection. They were going to place jersey barriers up to funnel all the traffic to a four-way stop and we were going to notify the people in Holden and once people got used to the new traffic pattern we

would change to cement barriers. We will ask the Police Chief for an update. A status of the Franklin/West Boylston Street intersection will also be asked for.

With no further business to come before the Board, motion Mr. Rucho at 10:00 p.m. to adjourn, seconded by Ms. Bohnson, all in favor.

Respectfully submitted,

Approved: September 2, 2015

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Nancy E. Lucier, Municipal Assistant

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John W. Hadley, Chairman

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Kevin M. McCormick, Vice Chairman

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Siobhan M. Bohnson, Clerk

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Christopher A. Rucho, Selectman

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Patrick J. Crowley, Selectman