

**TOWN OF WINCHENDON
BOARD OF SELECTMEN MINUTES
MONDAY, SEPTEMBER 8, 2014
Town Hall, 2nd Floor Auditorium
109 Front Street, Winchendon, Mass.**

Present: C. Jackson Blair, Chairman
Elizabeth R. Hunt, Vice-Chair
Robert O'Keefe
Fedor Berndt

James M. Kreidler, Jr., Town Manager
Linda A. Daigle, Executive Assistant

Absent: Keith Barrows

List of Documents Presented at Meeting:

- Letters of Interest for School Committee Vacancy – Dawn Harris and Danielle Hart (filed)
- Special One Day Wine and Malt Liquor License Applications:
 - o Immaculate Heart of Mary Car Show & Chicken Barbeque (filed)
 - o Snowbound Club Winchendon Pop Warner League Fundraiser (filed)
 - o Snowbound Club Annual Fundraiser in Memory of Jim Braun (filed)
- Road Race Permit Application – Clark Memorial/YMCA (filed)
- Mobile Vendor Permit Application – Katie's Gourmet Dogs, 157 Gardner Rd. (filed)
- Winchendon's Draft Hazard Mitigation Draft Plan from MRPC (filed)
- Email from Town Manager to Selectboard dated Aug. 28, 2014 – Re: Inspections (attached)
- Town Manager's Report (attached)
 - o Winchendon Police Dept. Incident Report dated 8/28/14 – Re: Mark Tansey, Municipal By-law or Ordinance Violation; attached images of lot and vehicles (filed)
 - o Email from Linda Daigle to ABCC Executive Director and his response of Sept. 2, 2014 – Re: Status of Appeal of the Revocation of Liquor License of Vasta, Inc., d/b/a Kwik Stop Liquors (filed)
- Minutes for approval:
 - o Monday, August 25, 2014 Regular Meeting (filed)

Chairman Blair called the meeting to order at 6:15 p.m. with the Pledge of Allegiance to the Flag of the United States of America. The meeting aired live on local cable access channel 8.

Disclosure of Audio/Video Recording - No one announced they would be audio recording the meeting this evening when asked by the Chairman.

BOARDS/COMMITTEES: JOINT MEETING WITH SCHOOL COMMITTEE:

Members of the School Committee present were: Chairman Mike Niles, Vice Chairman Mike Barbaro, Susan Burdsall and Andrea Suchocki. Niles called the Joint Meeting to order at 6:15 p.m. announcing they were here tonight to appoint a new member to the School Committee. Two candidates have come forward.

Dawn Harris introduced herself. She's been a resident of Winchendon since 2006, involved with Murdock Booster's and is a member of the High School Council. She is very interested in what the School Committee does and the policies and how things are brought about in how the School runs. She wants to help. She has two children in the School system and wants to help with better community participation. She has been the Treasurer of the Boosters for over four years now.

Danielle Hart introduced herself. She's been a resident since the end of 2004 and has three kids in the school system. She has a vested interest in insuring their school system is a good one. Her children like the school and they don't want to move. It's a good opportunity for her to do what she can do to help open up communication. She also works in the health insurance industry working closely with municipal teams and has gained a high level working knowledge of how budgets work and could bring some background knowledge. When asked what any of her specific goals are she replied to be more of an open book, let the parent see more. She's currently in the Middle School PTO serving as the Secretary. She has done fundraising, volunteered for preschool years ago when she was a stay-at-home parent and has been a part-time sub and paraprofessional.

Niles said the person approved tonight would be filling the vacant seat left by Chris MacDonald's resignation. The term would be until the next May election. If it is a desire to be re-appointed, papers would have to be taken out from the Town Clerk's office sometime around March 15. Berndt moved to nominate for appointment Danielle Hart; Barbaro seconded. There was no discussion. Bob O'Keefe also nominated for appointment Dawn Harris commenting both of these individuals have shown interest and would like a combined Board to consider both candidates; Niles seconded. Barbaro thanked both candidates for stepping up and either one would be well working with them and the Town. Blair encouraged both woman to run for the seat in the Spring. O'Keefe moved to close nominations; Niles seconded. Nominations closed. By roll call vote of Berndt- Danielle, O'Keefe - Danielle, Hunt present, Niles - Dawn, Suchocki - Dawn, Barbaro - Danielle, Burdsall - Dawn and Blair - Dawn, Ms. Dawn Harris by majority vote was appointed to the School Committee filling the vacant seat until the next election. She was congratulated and asked to go see the Town Clerk with the appointment slip signed this evening and get sworn in.

Berndt moved to close the Joint Meeting; O'Keefe seconded. By vote of all aye, the Joint Meeting was adjourned. Niles moved to close the School Committee meeting; Suchocki seconded. By vote of all aye, the School Committee meeting adjourned at 6:30 p.m.

Indirect Cost Meeting Scheduled Sept. 9, 2014 – Was not discussed.

Town Manager's request to reactive the Finance Sub-Committee – Was not discussed.

The Board of Selectmen took a five minute recess and reconvened at 6:35 p.m.

SELECTMEN'S COMMENTS:

Blair reminded everyone that the State Primaries were tomorrow at Old Murdock Senior Center from 7:00 a.m. until 8:00 p.m.

Daigle informed the Board that Tennessee Gas Pipeline representative from Kinder Morgan responded to her today saying Mr. Alan Forres would not be able to make their meeting obviously tonight or on the 22nd and requested Sept. 16th and 17th next week. She informed them those dates are not the Selectmen's meeting dates and other meetings are scheduled those evenings. He then offered Monday, Sept. 29th. Blair responded they had all summer to meet with the Selectboard. They have two set Mondays every month going forward and they should manage their schedule going forward to attend one of their meetings and answer their questions.

Hunt thanked the Historical Society and Bob O'Keefe and Don O'Neil for Casino Night which was a great event. O'Keefe said the goal of the event is to raise the funds to pay the heating bill of the Murdock Whitney mansion. They raised enough money to cover the winter's heating bill.

PUBLIC COMMENTS AND ANNOUNCEMENTS: There were none.

APPOINTMENTS/RESIGNATIONS: Hunt said there were many openings. Please see the cable station for vacancies and also the website to see where you can serve.

PERMIT/LICENSE APPLICATIONS, HEARINGS:

Special One Day Wine and Malt Liquor Licenses:

Immaculate Heart of Mary, Car Show & Chicken Barbeque – Sunday, Oct. 5, 2014 – Don Cuomo came forward representing the Church. He said it is the second annual event. They will also have live music. The tickets are \$10.00. Comments were made how great the event was last year. Berndt moved to approve; Hunt seconded. By a vote of all aye, the motion carried unanimously.

Snowbound Club, Inc., 130 Baldwinville Road – Special One Day Liquor Licenses: Annual Fundraiser in Memory of Jim Braun - Oct. 4, 2014 and the Winchendon Pop Warner League Fundraiser Sept. 27, 2014 - Mr. Rick Moulton came forward on the two applications for the Club. Concerns from a prior event were brought up that Mr. Moulton will speak to Lt. Walsh about and his Board of Directors of the Club and the Bar Manager. In the 41 year history of the club, this is the first time they have had anything happen like that. Both events will have Detail Police Officers. He offered they have raised a lot of money to both the food pantries in Winchendon and Templeton. With the Board considering both licenses Berndt moved to approve with the condition to work with Lt. Walsh; Hunt seconded. By a vote of all aye, the motion carried unanimously.

Road Race Permit October 25, 2014 – Clark Memorial /YMCA – Julie Whittemore came forward representing this application for a Halloween themed race. It is the same route as the Morin 5K race. It is a walk/run race and open to all ages. Anyone under the age of thirteen will need to have a parent. Volunteers will be present to help and Police Detail has been hired. She was asked to give a courtesy notice to The Winchendon School. Berndt moved to approve; Hunt seconded. By a vote of all aye, the motion carried unanimously.

Mobile Vendor Permit – Katie’s Gourmet Dogs, 157 Gardner Road – Mr. Jose Fernades came forward on this application. He owns property on Green Street he would like to put a hot dog truck on. The planned hours he will be open is from 10:00 a.m.to 4:00 or 5:00 p.m. He said Lt. Walsh has been to the site and mentioned all the parking will be off the street. Hunt offered she had concerns and would like to hold off taking the matter under advisement. She would like to visit the site and see this. She is worried about the traffic flow in that area and also the double lines that narrow. Mr. Fernades said his driveway is way before the big curb and didn’t understand traffic situation with other businesses who don’t even have off street parking. O’Keefe agreed with Selectwoman Hunt that public safety is a concern. The application is sent to other departments – the Police Department noted parking has been addressed and will not be on 140. He feels the issue has been addressed by the Police Department which satisfies him. He thought it would be wise to condition the vote that they work with the Winchendon Police Dept. on any parking concerns. Berndt asked about a curb cut permit. Mr. Fernades said he has no curb cut. The curb or berm comes up four inches; you go over this berm. It was noted the issues with the Treasurer were resolved. O’Keefe said considering the tax issue resolved, the Police already addressing the concern of parking, he moved for the applicant with the condition he continue to work with the Police Dept. with issues relating to parking and traffic; Berndt seconded for discussion. He tends to lean more to approval if he had more knowledge of what to do about the berm and suggested Mr. Fernades speak with Mass Highway about a curb cut. Berndt asked for the motion to be amended to include contact with Mass Highway regarding a curb cut. O’Keefe stated he wouldn’t want to condition a license with a stipulation that is out of this community’s control. By roll call vote of O’Keefe aye, Blair aye, Hunt present, and Berndt aye, the motion carried. He was asked to stay in touch with Lt. Walsh.

NEW BUSINESS:

Community Hazard Mitigation Plan – MRPC

Glenn Eaton, Executive Director for Montachusett Regional Planning Commission (MRPC), stepped forward and handed out the five year plan handout and the “Draft” Montachusett Hazard Mitigation Plan for 2014. He said MRPC is planning on providing updates to all cities and towns through FEMA and MEMA funding. This is the second time MRPC has written a regionalized plan. The first one finished in December of 2008. With the current plan soon to expire he addressed the “Five Year Plan Update.” He asked the Board to review it in the next two weeks, take it under advisement and forward it to our Emergency Management Director and other appropriate department. They are looking for comments so the plan could be tweaked. Fall, early winter, they will ask the Board to adopt the Plan. It will then be sent to FEMA/MEMA for review. They will send it back with a comment letter and a Conditional Letter of Approval. Once adopted it is returned to MRPC and incorporated into the Final Hazard Mitigation Plan. Questions and comments can be addressed to Sam Lawton, the MRPC Principal Planer.

Mr. Eaton pointed to the two maps in the back of the draft plan. The colored boxes are call out boxes containing information received from EMD and our local Police Dept. with having issues. A lot of this document is summed up in this GIS map. Berndt asked about the threat of the gas pipeline coming in if there was a plan for those types of disasters. Mr. Eaton said we should plan for it anyway and have emergency responders ready for it. This plan is only for weather related events, not man-made ones. He said he would need to qualify this. He was asked to find that question out. Kreidler noted he would sit down with his staff and review. Mr. Eaton was thanked.

Recording Secretary Fee:

Daigle informed the Board she was looking for some relief with the extended time she works requesting from the Board authorization to cover the cost for someone to do the minutes of their meetings. She stated she will still take computer notes of the meeting that can be forwarded to the person who will do the minutes. Blair asked if there were other ways to do minutes with just action points and decisions made instead of the ones they received that are very extensive and complete. He wondered if instead of getting help we keep them shorter and more abbreviated. Kreidler said the level of detail contained in the minutes have been able to answer questions many times in the past when we have had to go back and look at them. O'Keefe stated Open Meeting Law requires minutes to be more than just votes. It requires minutes to have a sense of the meeting. With our minutes you can read them and feel like you are at the meeting. They certainly meet that sense of the meeting. He added all the other Boards have a recording secretary that prepares minutes and that are paid. We've been asking for a period of time the Administrative staff here on a Monday working ten hours are then asked to continue working through the evening at the meeting and then asked to go do all the minutes. Blair stated that should be taken care of under a salary structure. This is our staff being the Board of Selectmen; this is part of Linda's job description and whether or not she is being paid adequately for that, he didn't know. That's a Town Manager's decision. Where being asked here to take on a \$2,000 shortage here out of our budget for something we have not done before to free up more time for Linda to do other things that she needs to do but that's a job description and a payroll situation as he sees it. Kreidler said this isn't to free up time for Linda to do other things. It's to allow Linda, a diligent employee, who emails all of us late into the evenings and/or on Sundays because the work load that she is responsible for she can't, because of her hardwiring/DNA, let it sit. She approached me saying something has got to give because she needed to reclaim some of her time for her family and for her own sanity. The idea behind this is to first offer to Margaret to do the actual minutes from the record Linda creates. It's extra budgetary for Margaret as it's not part of her job description and not what she is currently being paid for. It becomes a question of freeing up time for Linda to reclaim some of her life and in doing so can it be funded in some other fashion? Your budget has a line for Contingency as well as a line for Administration. Generally the Admin line doesn't get touched. It ends up getting closed out and is used somewhere else. It is available, called Administration support and gives you the ability to do this if it is your wish. He supported Linda's efforts in bringing this to their attention.

Blair asked if the office was understaffed and possibly adding a part-time person. Kreidler replied there isn't money available in the budget and can't afford it and also there were other departments that were understaffed that were much more critical than his office. If you don't want to support this, we'll figure something out because something has to give for Linda. Ideally, Margaret would be asked first because she is conversant with the material working in the office. She would be offered a stipend for extra duties. O'Keefe reminded the Board that part of the reason we get our packets on Friday is because Linda is finishing the minutes. We could help in this way and would benefit with our packets being prepared more timely giving the Board extra time to review the material in the packets. Fedor asked if we were shifting the work and will then Margaret be burdened. Does she have more time to do these? Kreidler replied Margaret, as an hourly worker, has more time. She is not required to be here on Fridays when Town Hall is closed as a core function of the job. This non-work time would be available for her to do the minutes. Linda was asked how long it takes her to do the minutes. She replied, for a meeting like this one, five hours. She stated she reviews the DVD after the meeting wanting to capture everything accurately. Blair was surprised it took that long. Discussion was had on the video recordings we now have and that detail could be reviewed through the DVDs and what the Open Meeting Law requires. Hunt felt the detailed minutes are not needed. Blair suggested more research should be done checking with the state on the requirements for minutes and then make a decision. O'Keefe advocated for the continual type of minutes they have today stating while we do have recordings it is the minutes that become the permanent record. Twenty years from now, there might be an action they take tonight that gets called into question. It's the minutes on file with the Town Clerk's office that will be reviewed and what was the action and what did the Board do that night. If it's just a couple of bullet points, it

might not be able to answer the question. The law at this time requires written minutes not a video as the official record. Kreidler stated he'd be happy to get the Open Meeting Law handbook which should give examples of what minutes should be of a minimum. If you decide you want them abbreviated, then they will be abbreviated. They are your minutes. DVDs cannot be an official legal record; they can be supportive. The minutes are the legal record under the law. O'Keefe moved to table to the next meeting with the Town Manager bringing the applicable information; Berndt seconded. By vote of all aye, the motion carried unanimously.

Multi-family Inspection Requirements – CMR 780

Kreidler spoke about an ongoing discussion particularly with a member of our local elected Board of Health regarding issues of inspections of multi-family residential units. Each time it has been brought to his attention, he has sat with the individual who has asked the questions and brought in the individual he thinks is responsible for the inspections but not being responsible. We have a discussion, he walks away and seems to have an understanding at that moment until it's raised again. Most recently it's been an issue of this Board. He referenced and read part of an email he sent to them last week in response to this issue. Under the Code of Mass. Regulations 780, there is a requirement that each multifamily (3 or more) residential dwelling units be inspected at least every five years. It is the owner's responsibility if they are going to rent their property to make certain they get the inspection. It's not the Town's responsibility to make sure the inspection exists. Somehow it gets twisted around in the discussion that it is the Building Commissioner's responsibility to do these inspections. He is the person that will conduct the inspections when asked, and regularly does, but does so when asked or when the owner might be in for other purposes related to the property. The notion that it is the Building Commissioner's responsibility to get the inspections done has got to stop. It is tiring. The Building Commission is not full time. He got extra hours four years ago. When the economy picks up so does his work load. A revisit of his hours could be reviewed in the next couple years based on the paperwork being seen in the office. Paul Blanchard, the Building Commissioner, was present at the request of the Town Manager to answer any questions they might have. Blair noted when they are out and about in the community they hear rumors that things are not getting done in a timely basis and that the Town might experience ramifications if the Board ignores them. He then checks with the Town Manager and hears a different story about what is required and how and when it happens. He sees a division in how the Town perceives this job and thought good to have Mr. Blanchard come forward and say what he would like to say and if there were any questions anyone wanted to ask, they could. Kreidler said there is a divergence in communication on this; when he communicates with them he has the facts, the regulations and the law.

Mr. Blanchard was introduced as the Zoning Enforcement Officer, Building Commissioner. He said the law does require that all these property owners have these inspections. His office has created a database and did send out letters. They have had some responses and he has done some inspections but things got tight with the passing away of his secretary. When people call the office, he will certainly go out and do the inspections. Blair asked if he was concerned if he had fallen behind in any way in getting the inspections done on a timely basis. Blanchard answered you can always have more hours. Blair asked if any inspections were seriously in arrears that could cause a problem for the Town. Blanchard replied there are some buildings that have never been done that weren't even identified until the creation of the database. O'Keefe said we come up against this many times; we have an ordinance state regulation that people just don't follow. What recourse do we have for people that don't ask or respond to the letter? Kreidler replied if there was a point on the continuum where they would have to come to us and ask for something we can then use that. Mr. Blanchard does that now. If they need something like windows or a fire escape, he has them in front of them and he then can address the other issue. Unless they ask, we have no leverage. We can't say we are shutting you down. If there was a fire code issue, we could perhaps shut them down. O'Keefe thought of possibly linking the requirement for smoke detectors with the inspection. We don't issue smoke detector permits unless the five year inspection has been requested and completed. Kreidler thought no because there was a statutory framework that we have to respond within this period of time. He was going to look and see if the two could be married but he didn't think so. Blair said the state provides no vehicle to punish those who don't comply. This exists in our town. The citizenry knows that and understands that they are never going to get inspected and their assumption is that they have fallen short somehow where in fact they have not. O'Keefe asked about fining them. Kreidler said he doesn't have the ability to fine someone for a state thing they are supposed to do under a state code. Berndt is confused, a possibly serious issue here. The Building Inspector can do the inspection, the law requires it be done and couldn't understand how we can charge someone \$50.00 for not registering their dog but we have no teeth to protect the people that are renting apartments. People are living in

unsafe conditions. Berndt asked about creating a Town ordinance. Blair asked Kreidler to look into this. Kreidler stated he would look to see if there is a local enforcement mechanism that can be put in place to comply with a state regulation. O’Keefe said maybe there could be a charge to help pay for the inspections. Blanchard explained there is a \$100 fee for the first three units and most times there are additional repair expenses on the owner in order to get the certificate. It takes him about an hour and a half to do an inspection on a five unit building. Consideration of extra hours to do all the inspections if this comes to fruition was mentioned and the fee revenue should cover these inspections. Mr. Blanchard was thanked for attending the meeting this evening.

Lionel Cloutier, the Board of Health Chairman, came forward and showed them his pictures of the apartment Selectman Berndt was talking about.

OLD BUSINESS: N/A.

TOWN MANAGER’S REPORT:

1. Personnel Updates-

a. None at this time.

2. Financial Updates-

a. None at this time.

3. Project Updates-

a. Police Station Filed Sub-Bids- Kreidler reported the filed sub-bids for the police station project were received last Thursday. They were publicly opened and recorded and are currently being tallied and analyzed by our Owners Project Manager the Maguire Group. He has learned through a conference call with the OPM, the Development Director who is shepharding the budget internally, the Police Chief and himself that one of the larger sub-bids, the electric sub-bid, we did not receive sufficient number of bids for. The OPM is recommending we not go forward with that and go back out on that one subject. We will be having another conference call tomorrow to go over the details. In addition, he reported, three other bids, one of them HVAC, did not sign the attestation that they had received an addendum. The legality of accepting this bid is being looked in to. There are enough questions to regroup tomorrow. Hunt asked do we now have to rebid the Police Station. Kreidler said it would be really amazing to him given the fact that they had just learned this at 3:30 this afternoon that unless someone has a direct line to the OPM who is out of Boston and is getting information before we are, he would find it highly unlikely that there is a connection between those two things. He will learn more tomorrow. They are still looking at everything as we talk about it today. Berndt asked if the electrical bid includes everything including the communication part of it. Kreidler’s understanding was that it was everything and would find that out tomorrow.

4. Miscellaneous Updates-

a. 50 Franklin Street- There has been a concerted effort made by the Board of Health, the Conservation Commission, the Planning Board, the Zoning Enforcement Officer, the Fire Department and his office to address ongoing concerns at 50 Franklin Street. The original use approved at that location was for a “contractor’s yard.” The business model presented to the Planning Board was that this gentleman had a contract with several banks and he would be removing the contents of foreclosed homes, bringing it back to his yard, separating things to their respective piles and the owner originally committed that no material would be left onsite longer than twelve hours. That is clearly not the case today. The State Department of Environmental Protection (DEP) Emergency Strike Task Force inspected the site back in April and reported out to the Chairman of the Board of Health that the site is being used as a solid waste facility without site assignment and appropriate permits. The Board of Health has a significant amount of authority for projects like this. This was reported to the Board of Health back in May and it’s unfortunate that this information was not shared and was only discovered when the Development Director called DEP to seek guidance on this site. Last week the following affirmative took place:

- The Planning Board issued a letter requiring the owner’s attendance at a meeting to discuss the failure to complete the fencing.

Discussion was had on the requirement of sufficient screening and the fence he offered to be erected. There was no date assigned by the Planning Board to erect the fence. It hasn't been completed. Notice has gone out and he has been invited back in to the Planning Board to ask why the fence has not been completed. They could rescind the site plan. Blair said he walked the site today. Nothing has been done for well over six months on the fencing; two sides of the fence are left open being dangerous to children. He thinks it ridiculous we haven't done anything. He's in violation of what you told him to do; it's a safety hazard for the Town of Winchendon. He should be shut down. Kreidler explained the fencing requirement for the Planning Board had to do with visual screening and not how to keep kids out. The current bylaw allows only that and perhaps it gets tightened up with revisions being planned and made. The Chairman's notes back then say that it can be landscaping.

- The Conservation Commission issued an enforcement order regarding the owner's failure to complete the required conditions of the Notice of Determination of Applicability.

The Conservation Commission has addressed the business and the fact that it was believed that he was blowing chipped material, painted and varnished wood oftentimes without the metal removed into the back part of the property bordering vegetative wetlands. The enforcement order required him to pull that stuff back out and remove it in which he did but it also required him to fence the property which he did not do.

- The Fire Chief is bringing the State Fire Marshall in for an inspection tomorrow. They have the ability to do a stop order. He said if you've gone by there you will see not much going on right now.
- The Board of Health is working through Town Counsel and a draft letter has been sent to Chairman Cloutier today so his Board could take a vote to consider a cease and desist order requiring him to stop all activity onsite with the exception of the required removal of all materials to an appropriate solid waste facility.

The Board of Health is the Board that could shut him down. The Planning Board could remove the site plan which could in affect shut him down. The Conservation Commission could seek an enforcement of the enforcement order in court which isn't going to shut him down and will take time. The Board of Health has a significant stick in this thing. Chairman Cloutier has indicated that he will bring to his Board the letter drafted by Counsel and get a vote of the Board to send the letter stating that they are to cease and desist all activity unless and until they get appropriate site assignment through the local Board of Health and that they get any required inspections from DEP.

DEP is aware of this and he has heard they have dealt with this in other communities. We should be concerned, because it seems to fit a pattern where he gets a piece of land, fills it full of stuff that has no value, takes stuff that has value and then walks away.

What does this mean? The BOH is expected to issue a cease and desist to the business. If DEP's experience is on point, there is nothing to cease and desist because the work is done. Their order will say clean it up. DEP's experience is it won't be cleaned up. We are then faced with it as it sits or we clean it. We go to court to get a judge to compel him to clean it up and the business says we are an LLC and just disappear or they make excuses. Orders have been ignored. We go to court, they say we can't afford it, then we have to do the demolition. O'Keefe asked about the prohibitive bylaw and possibly fining him each day. Kreidler replied we do have the ability with the prohibited bylaw or with better teeth the Second Hand Junk Dealer's license which has a bigger fine. We can come at him with different angles but the one thing that can stop it and get it cleaned is the Board of Health. If he ignore or refuses, we will have to clean it ourselves and lien the property. The property doesn't have the value behind it. Mr. Cloutier was asked to come before them at their next meeting and report back.

- The Town Manager is working with DEP to encourage their intercession and enforcement.

DEP does inspections and has enforcement authority. Counsel has said they have been successful in the past in pressuring the DEP to take jurisdiction. They have funds to do this type of cleanup.

- b. **49 Spring Street-** Kreidler informed the Board historically this lot has been used as a pre-existing non-conforming auto repair and auto sales site. In 2011 the Building Commissioner ruled that the site had lost its grandfathered status as an auto sales site with two years of no such use having elapsed. He ruled, however, that the auto repair use retained its grandfathered status. The current occupant, Mark Tansey, appeared before you in 2012 to seek a Class 2 license to sell cars at that location. You conditionally issued such license. He was limited to 15 vehicles and had to get his special permit from the ZBA per zoning and a site plan review with the Planning Board. He started the process but never finished. At a minimum, he has been conducting auto repairs as a grandfathered use since that time. As an auto repair shop he is still held subject to the town's unregistered car bylaw and in that regard he was advised by the Police Department in January that he would be allowed to keep up to 15 unregistered cars on lot so long as he had either received or been in process of receiving his Class 2. He said as an auto repair business you can't have unregistered cars laying about your lot. The ball was dropped. The Police Department believed that he had complied and did in fact receive his Class 2 license so they never pursued the matter further. He did not advise them of anything to the contrary so for the past six months he has been in violation of the unregistered car bylaw, at a minimum. As of last week, a complaint was sought in the district court for said bylaw violations. Additionally, there is a possibility that some of the activity being conducted on that site would constitute a Class 3 operation and in that regard perhaps the Board of Selectmen would consider calling the operator into your next meeting to have such a discussion. Blair said they have failed us and it is time to hammer it down. Berndt moved to call Mr. Tansy in for possible Class III activity; O'Keefe seconded. By vote of all aye, the motion carried unanimously.

Okeefe asked if we were fining him for unregistered motor vehicles. Kreidler replied the complaint has been issued at the District Court last week. We are not sure if it's \$50 per vehicle per day or will they have one fine for the whole lot. We will find out next week. Berndt ask to check if there is any Board of Health or Conservation Commission violations. Kreidler checked with Counsel and asked if the Board of Health had any jurisdiction on this as well. It could be possible, the same recommended letter will be going to the Chairman of the Board of Health to consider this vote.

- c. **Multifamily Residential Unit Inspections-** Addressed earlier in this meeting.

d. **Goodwin Dog Matter** - Kreidler stated as of about 3:00 o'clock this afternoon, he received an email from Counsel that he forwarded to them. To paraphrase, the Clerk of Court has issued a ruling that supports the Boards finding that it's a dangerous dog, but does not support the Board's finding for it to be euthanized, instead that the dog be muzzled at all times while off property. The Clerk of Courts has overruled your ruling to euthanize the dog. The concern is the statue empowers the Court to either affirm or deny your position and not to substitute your judgment for theirs. We have a choice to pursue that technicality which he didn't advise or we could appeal. He estimated the appeal process to cost the Town about \$1,000. Blair stated it is our responsibility to protect the people of the town. We carried out our responsibility. We voted and made our recommendation. It went to court. The court has suggested that we were right to call it a dangerous dog, but not to euthanize it. Why appeal it, why throw any more money at it. He expects the dog will be back before us again with someone being injured. Everyone in town knows what we thought and the citizens have been made aware that there is a dangerous dog in town. O'Keefe said we actually held two hearings. The first one we declared the dog dangerous and to be muzzled off property. The second one, the Board chose to have the dog put down. The court denied the second hearing and approved the first one. Kreidler replied member O'Keefe is correct on a technicality; however, the vote to deem it dangerous and muzzled does not exist in real time any longer because at the second hearing the Selectmen voted to reconsider that decision which means it is now gone and the new one in its place. The Clerk had the benefit of that

information and may have reached back to that. O'Keefe said technically he says it does exist because he feels the second hearing was not proper in his opinion. We should have held another hearing. Blair said this is a mute point at this time, a decision has been rendered. We can choose to appeal or do nothing. Chances of another violation are high and it will be back before us. Hunt agreed with O'Keefe on how it took place. We can't control what the judge said but something happened that was a failure. We had a child that was bit and we failed. It was when we were merging dog officers the system failed. A few incidences during the merge backfired on us. She wanted assurance that things like this would not happen again. Kreidler confirmed this occurred during the two week period we had no Animal Control Officer. He had just heard firsthand about this and was surprised that the document existed. The police investigated and reported to this office. He takes responsibility with his office. He has tweaked the system and if a bite occurs it will be reported to you and you decide what gets done. He can't guarantee it won't ever get dropped but the system has been reinforced. The Animal Control Officer we have now knows if there is a bite it gets reported at staff level in his office. Berndt added it was a bad situation and we were lied to. We were not answered when asked the question. He wanted to know how to address someone that lied to them under oath. Kreidler replied that they had the ability by vote this evening to take out a criminal complaint against someone who has been before you on an official matter, was sworn in to tell the truth and has lied under oath. Blair stated for the integrity of the Board and the swearing in of these kinds of hearings is very important to him and he would entertain a motion for criminal charges. Berndt so moved; Blair seconded. Examples of Mr. Goodwin lying during the hearing were given. He lied by commission and omission on tape, under oath during the hearing, concluded the Town Manager. O'Keefe agreed with the Chairman. The integrity of our hearings must be upheld and anyone lying should be investigated. O'Keefe didn't believe he lied attributing it to Mr. Goodwin's interpretation of the question when asked if the dog has ever bitten anyone else. Maybe it was being interpreted as biting someone of the public and not an occupant of the home. We are here to protect the public, not occupants of a home. Was he truly lying, or did he not feel he was lying. It's not something for us to determine; it's for a judge to determine. He supports investigating this. Blair said we can't be responsible for the intellectual, moral or emotional condition of the people who come and swear before us. This is the same guy who heard the judge say you will muzzle the dog and you will keep him in the yard and we have caught him with the dog unmuzzled, out of the yard and he said he didn't hear the judge say that. He walks a fine line, said O'Keefe. Hunt was concerned about spending thousands of dollars in court trying to prove a point with it going nowhere. Blair said we will make it clear that if you have a case before us, you can't lie to us without repercussions. If we do nothing, why would anyone come up here under oath and not lie to protect themselves. Kreidler informed the Board that a criminal complaint would be through the Police Department and prosecuted through the District Attorney's office, not needing Town Counsel. By a vote of all aye, the motion carried unanimously.

- e. **ABCC – Kwik Stop Liquor's Update** – Kreidler reported that Linda had reached out to the ABCC regarding the appeal hearing that was held in April. Her response back from them was still no decision has been rendered yet. Blair didn't understand why this was taking so long; a family has been put on hold, the liquor license is on hold and felt it was inefficient.

MINUTES: Monday, August 25, 2014, Regular Meeting – O'Keefe moved to approve; Hunt seconded. By a vote of Hunt aye, Fedor abstain, O'Keefe aye, and Blair aye, the minutes were approved.

COMMUNICATIONS:

AGENDA ITEMS: With the 2nd Monday in October being a holiday, the Board scheduled a meeting for Monday, October 6, 2014.

ADJOURNMENT: With no Executive Session needed, Berndt moved to adjourn; Hunt seconded. By a vote of all aye, the meeting adjourned at 8:39 p.m.

Respectfully submitted, Linda Daigle, Executive Assistant