

MINUTES OF THE BOARD OF SELECTMEN MEETING

December 16, 2013
Meeting held at Town Hall

MEMBERS PRESENT: Chairman Robert Snow, Vice Chairman Robert Merry, Jack Cook, David Petersen (Town Administrator Deborah Eagan, Assistant Town Administrator Amy Lydon) Clerk Joseph Perry - ABSENT

PUBLIC ATTENDEES: Lawrence White – Finance Committee; Rick Rousseau – Mill River Winery; William J. Cuddy – ARS Motor Cars

CALL MEETING TO ORDER

Chairman Robert Snow called the meeting to order at 7:02 p.m. He said the meeting is being video and audio taped.

PLEDGE OF ALLEGIANCE

Dave Petersen led the Pledge of Allegiance.

CHAIRMAN'S COMMENTS

None.

GENERAL BUSINESS

1. Class II Dealer License renewals

Chairman Snow read the following:

The application for Lockhart's at 43 Summer Street has been received, but \$1,466.07 is owed in taxes. Does the Board wish to conditionally approve this license and hold it until the outstanding taxes are paid?

AutoPro Collision Center at 266 Haverhill Street has not returned their renewal form. The attached letter has been mailed to them today and if their renewal form is not returned by Thursday December 19, 2013 by 10:00 a.m., their license will expire as of January 1, 2014 and this business will no longer be able to operate.

The Selectmen put these items on hold until the next meeting.

2. Class III Dealer License renewals

Chairman Snow read the following:

The following owners have submitted Class III Dealer's license renewals for calendar year 2014.

1. Rowley Auto Parts Michael Bontos 164 Boxford Road Rowley, MA

This applicant has provided a completed application and the \$200.00 renewal fee. There is an outstanding tax bill of \$7,615.07 for this business.

The Selectmen put this item on hold until the next meeting.

3. Auto Auction Permit renewals

Chairman Snow read the following:

The following owner has submitted an auto auction license renewal for calendar year 2014.

2. Rowley Auto Parts Michael Bontos 164 Boxford Road Rowley, MA

This applicant has provided a completed application and the \$100.00 renewal fee. There is an outstanding tax bill of \$7,615.07 for this business.

The Selectmen put this item on hold until the next meeting.

4. Stable Permit renewals

Chairman Snow read the following:

The following owners have submitted Stable license renewals for calendar year 2014. Applications are complete and taxes, light and water bills are paid.

<i>Christine Cassenti</i>	<i>Chrislar Farm</i>	<i>944 Haverhill St</i>
<i>K. St. Peter Blair</i>	<i>KSB Morgans</i>	<i>39 Kittery Ave.</i>
<i>Alexandra Arthurs</i>	<i>Clearview Farm</i>	<i>331 Wethersfield St</i>
<i>Bruce Tompkins</i>	<i>Bart Farms</i>	<i>74 Long Hill Road</i>
<i>Leslie Milne</i>	<i>Billiebo Farm, LLC</i>	<i>204 Dodge Road</i>
<i>Anne Coan Belka</i>	<i>Winthrop Farm</i>	<i>183 Haverhill Street</i>

Dave Petersen made a motion to approve the stable license renewals above, Jack Cook second, all in favor – aye (4-0). Joseph Perry – ABSENT

Snow continued:

Complete applications have been submitted by the applicants below, but taxes are owed as detailed. Does the Board wish to conditionally approve these licenses and hold them until the taxes are paid?

Rachel Murrin	Kittery Crossing Farm, LLC	59 Kittery Ave.	\$53 owed in taxes
Dennis Pellecchia		179 Boxford Road	\$30.01 owed in taxes

The Selectmen put these items on hold until the next meeting.

5. Flea Market Permit renewals

Chairman Snow read the following:

The following owners have submitted Flea Market license renewals for calendar year 2014. Applications are complete and taxes, light and water bills are paid.

Todd Farm LLC	283 Main Street	Starr P. Todd
Todd's River View Farm	275 Main Street	Frank and/or Shirley Todd

Dave Petersen made a motion to approve the flea market permit renewals, Jack Cook second, all in favor – aye (3-0). Joseph Perry – ABSENT Bob Merry – RECUSED

7:05 – 7:15 p.m. CITIZEN QUERY

Citizen's Query opened. There were no Citizen's Queries.

GENERAL BUSINESS

6. Vote to accept resignation from John Rezza

Chairman Snow read Rezza's resignation letter (COPY ATTACHED).

Dave Petersen made a motion to approve accept John Rezza's resignation, Jack Cook second, all in favor – aye (4-0). Joseph Perry – ABSENT

OLD BUSINESS

1. Discuss Northeast District Division of Fisheries and Wildlife salt marsh land request

Chairman Snow read the following:

Town Counsel Judy Pickett has reviewed the paperwork submitted by Anne Gagnon of the Northeast District Division of Fisheries and Wildlife for the sale of the salt marsh land.

The Board of Selectmen needs to take a formal vote to declare that the land is surplus municipal land and that it can be sold.

The Board of Selectmen then needs to vote and sign the Disclosure Statement for Transaction with a Public Agency Concerning Real Property. This form needs to be filed with the Division of Capital Asset Management prior to the Board of Selectmen signing the Option to Buy and Consent to Order of Taking.

Judy says that there needs to be some changes to the Option to Buy document that include a provision that the Option is subject to an affirmative vote of Town Meeting and if Town Meeting fails to approve the sale, the Option becomes null and void. This document cannot be signed until these changes are made. Debbie will request that the Division of Fisheries and Wildlife make the changes as requested by town counsel in her December 16th memo.

Petersen asked if this is the original request. Eagan said yes, it is the parcel they first asked to purchase for \$24,000.

Jack Cook made a motion to approve declare that the land is surplus municipal land and that it is available for disposition, Dave Petersen second, all in favor – aye (4-0).
Joseph Perry – ABSENT

Eagan said she completed an updated DCAM form which needs to be signed by the Board and then mailed to DCAM.

Bob Merry made a motion to sign the Disclosure Statement for Transaction with a Public Agency Concerning Real Property, Jack Cook second, all in favor – aye (4-0).
Joseph Perry – ABSENT

Eagan said she will communicate to Ann Gagnon that the Option to Buy document needs editing per Town Counsel and it requires a Town Meeting vote. She said we will file the Disclosure Statement with DCAM and provide Gagnon with the legal opinion outlining the changes needed, and hopefully this will be ready for next week's meeting. She said the appraiser has been to the property to establish its fair value.

7:15 p.m. Appointment – Rick Rousseau, Mill River Winery, to discuss Farmer Winery Pouring Permit

Chairman Snow read the following:

Rick Rousseau wants to speak to the Board of Selectmen about supporting a 60-day grace period to provide/sell samples.

If the Board of Selectmen votes to support a grace-period, we will need to have a letter sent to the ABCC tomorrow with a copy to Senator Tarr. Senator Tarr's staff has been working directly with Mr. Rousseau on this matter.

As of today, we have not received the Farmer Winery Pouring License application from Mr. Rousseau.

Rousseau said he hasn't applied for this pouring permit because he was unsure of the outcome of the conversations between the attorney from Senator Tarr's office and the ABCC regarding the language of the new law. He said Tarr's office notified him today that the ABCC would support a sixty day grace period if the Board of Selectmen does, and provided that the Mill River Winery applies for a Farmer Winery Pouring Permit.

Eagan said Mill River Winery sent a letter to the ABCC last week (COPY ATTACHED). She said she met with Rousseau last Thursday and told him she didn't think that the Board would object to a grace period. She said she told him that the Town is following ABCC's directive and this new pouring permit is needed if a farmer winery wants to provide or sell samples. She said this new law went through the legislation unbeknownst to anyone – it was attached to a budget bill. She said she explained to Tarr's staff that if the ABCC sends a letter to allow a sixty day grace period, then the Board of Selectmen can vote to send a letter of support for the grace period. She said Tarr's staff asked if Mill River had filed their application yet as this seems to be a key issue for them. Rousseau said the language in section 12 does require them to have this permit and he will complete the application. Petersen said he doesn't have any objections to supporting a sixty day grace period. Merry agreed, and said especially during this time of the year.

Jack Cook made a motion to support the ABCC's grant of a sixty day grace period, pending receipt of the application for the farmer series pouring permit, Dave Petersen second, all in favor – aye (4-0). Joseph Perry – ABSENT

Petersen asked Rousseau to get the application in. Eagan said once we have it, we will send the letter of support to the ABCC. She said the public hearing can be held on January 6, 2013 at 7:15, and Rousseau can send the notice of public hearing prepared by the Selectmen's office staff to the abutters this week. She said Rousseau will need to provide us with the affidavit that the abutter mailing was completed, and the public hearing notice will need to be published in the Newburyport Daily News as soon as possible. Rousseau thanked Eagan for calling Tarr's office on this issue. Eagan said Tarr's office went straight to Treasurer Grossman who oversees the ABCC, so this issue is reaching higher levels. She said we still haven't been able to get a copy of the new law, it has been a tough issue and we sympathize with the wineries.

7:05 – 7:15 p.m. CITIZEN QUERY

Citizen's query was closed. There were no additional citizen's queries.

7:30 p.m. Appointment – Conservation Commission Agent Brent Baeslack to discuss 710 Haverhill Street acceptance of land - **POSTPONED**

NEW BUSINESS

2. Class II Dealer's Application from Marjorie Locke Noonan and William Cuddy for 165 Newburyport Turnpike

Chairman Snow read the following:

Marjorie Locke Noonan and William Cuddy have submitted an application for a Class II Dealer's License for 165 Newburyport Turnpike. They are seeking a twelve car limit license.

This location was previously occupied by Foreign Auto Engineering.

They have submitted a \$200.00 fee and a \$25,000 bond.

If the Board of Selectmen is satisfied with the application, the Board needs to vote to issue the license. The Board can sign the license tonight.

William Cuddy said they would like to have twenty-five cars at this location, but was told by ZBA Chairman Don Thurston that there is a process that he needs to go through to change this and it may take sixty to ninety days. He said he owns Hamilton Enterprises next to Gino's. He said the new used car dealership in town, D&D Auto, has hurt his business by 30 to 40%. He said this new location would help direct customers to the location next to Gino's.

Eagan said the old license issued to Foreign Auto Engineers in this location allowed for a twelve car limit. She said we are at the end of the calendar year and asked the Board if they wish to consider applying the \$200 fee to the remainder of 2013 and all of 2014.

Dave Petersen made a motion to approve the Class II Dealer's License for Marjorie Locke Noonan and William Cuddy at 165 Newburyport Turnpike, with a twelve car limit, and allowing the \$200 fee to cover the remainder of 2013 and all of 2014, Jack Cook second, all in favor – aye (4-0). Joseph Perry – ABSENT

OLD BUSINESS

2. Discuss Town Counsel memo on Assessors' Parcel 13-1, 13-6 and 13-14

Chairman Snow read the following:

The Board has reviewed Judy Pickett's memo on the parcel of land that the police station is located on.

The land is "general municipal" land under the Board of Selectmen. Judy is advising us to research back to make sure that the Town did not buy it with funds borrowed for municipal water purposes and that there were no federal or state reimbursements for that purpose.

Merry said we are in the process of doing research on this complicated issue. He said in 1977, the acquisition of this land was made using left-over money in several accounts. He said Town reports need to be reviewed to track down whether or not any of this money was borrowed. Petersen asked if there is an indication of federal or state money being used. Merry said not yet. Eagan said all directions are showing that the Town is fine to proceed as it wishes for the proposed fire station. Petersen asked if there are issues with the well. Eagan said there aren't any, that the old records need to be researched to determine if borrowed funds were involved. Petersen said if the research shows no borrowing was involved, the Town can put an article on the Annual Town Meeting warrant in the Spring. Snow said this needs to be tabled until the funds are cleared. Petersen said discussions with the Police and Fire Chiefs should continue to determine what they want in a new station.

3. Discuss 112 Central Street

Chairman Snow read the memo from Building Inspector Ken Ward (COPY ATTACHED). Eagan said Ward has assembled documentation for the Board to review (COPIES ATTACHED). Petersen said he is concerned about the items highlighted by the Highway Surveyor such as it being a weak structure, that is leaning and becoming a falling hazard. He said we should declare a state of emergency and he's concerned about the liability and the heavy snow doesn't help. He asked if the Town spends the money to take it down, would it be reimbursed. Eagan said there are no funds appropriated to do this. Petersen said if it is an emergency situation, the Town should come up with the money somehow. Eagan said if it is an emergency / unforeseen expense it can be brought to the FINCOM, and she would recommend that the funds for the demolition be moved into the Selectmen's budget. Snow asked how much the demolition will cost. Petersen said someone said \$10 - \$15 thousand. Eagan said that quote was for taking the structure down and did not include removing items from the foundation. She said prevailing wages would apply and required insurance would need to be obtained. She said the demolition cost would be applied as a lien on the property and would need to be factored into the price.

Merry said we should budget \$15,000. Cook said the lien money would be recuperated eventually, but the foundation shouldn't be left open. Eagan said we would probably

have to put a fence around the foundation. Snow said \$15,000 probably will not be enough money. Eagan said she can get pricing for the fence and get back to the Board, and this can be brought to the FINCOM in January. Petersen said we should declare a public safety emergency tonight and request that the FINCOM transfer \$15,000 into the Selectmen's budget. Eagan said we should get quotes first. Merry said we can start the process tonight, then get quotes and then bring it to the FINCOM once the cost is known. Eagan said the FINCOM is meeting the second Tuesday in January. She said she will try to have a package available for the January 6, 2013 Selectmen's meeting, and the Selectmen can go to the FINCOM meeting with the Building Inspector to discuss demolishing, hauling away the debris and fencing in the foundation.

Dave Petersen made a motion to declare a public safety emergency, Jack Cook second, all in favor – aye (4-0). Joseph Perry – ABSENT

Dave Petersen made a motion to investigate the costs and process for this demolition so that by January 6, 2013 we have enough information to request a transfer from the FINCOM, Jack Cook second, all in favor – aye (4-0). Joseph Perry – ABSENT

NEW BUSINESS

1. Vote to accept donation of used furniture from Institution for Savings Bank

Chairman Snow said, "The Institution for Savings donated the chairs, file cabinet and a coffee table. The Board needs to vote to accept the donation and to send a letter to the Institution for Savings thanking them for the donation."

Snow thanked the Institution for Saving for the chairs and said they are very comfortable.

Jack Cook made a motion to accept the donations and to send a thank-you letter to the Institution for Savings, Dave Petersen second, all in favor – aye (4-0). Joseph Perry – ABSENT

Bob Merry made a motion to accept the lovely leather chair donated to the Selectmen's office by Chairman Snow, Jack Cook second, all in favor – aye (3-0). Joseph Perry – ABSENT Bob Snow - ABSTAINED

ANNOUNCEMENTS

- Rowley Food Pantry is in need of donations. The Food Pantry's normal hours are Tuesdays from 10:00 a.m. to 12:00 p.m. and Thursdays from 5:30 p.m. to 7:00 p.m.
- The Rowley Food Pantry will have special hours over the holidays as follows: December 21 from 9:00 a.m. to 11:00 a.m. The Food Pantry is closed on

December 24 and December 26 and will re-open for normal hours on December 31, 2013

- The Town has the following vacant seats: Conservation Commission, Zoning Board of Appeals Associate two open seats, two fence viewer positions, and wood lumber bark inspector
- Battery recycling box located at the Town Hall and Library

Chairman Snow called for a motion to go into Executive Session for the purpose of discussing strategy with respect to litigation because an open meeting may have a detrimental effect on the litigating position of the Town and to not return to open session. Jack Cook so moved, Dave Petersen second, all in favor – roll call vote: Robert Merry – aye, David Petersen – aye, Robert Snow – aye, Jack Cook – aye. Joseph Perry – ABSENT.

Open meeting adjourned at 7:47 p.m.

Respectfully submitted,
Amy Lydon
Assistant Town Administrator

ATTACHMENTS:

1. Letter sent to Philip Mumley dated December 16, 2013
2. Resignation letter from John Rezza
3. Memorandum from Brackett & Lucas regarding sale of salt marsh land
4. Disclosure Statement for Transaction with a Public Agency Concerning Real Property
5. Letter from Board of Selectmen to Mill River Winery dated December 10, 2013
6. Letter from Mill River Winery to ABCC dated December 12, 2013
7. Application for Class II Dealer's License from Marjorie Locke Noonan and William Cuddy
8. Assessors' cards for 165 Newburyport Turnpike
9. Email correspondence regarding outstanding monies owed to the Town from 165 Newburyport Turnpike
10. Class II Dealer's license issued to Lawrence Watson, Foreign Auto Engineering at 165 Newburyport Turnpike
11. Memo from Brackett & Lucas re Assessors' Parcel 13-1, 13-6 and 13-14
12. Memo from Ken Ward regarding 112 Central Street
13. Letter from Ken Ward to Muriel Prime regarding 112 Central Street dated June 19, 2013
14. Excerpts of 780 CMR
15. Memo from Frank Marchegiani to Ken Ward regarding 112 Central Street
16. Letter from Fire Chief to Board of Selectmen regarding 112 Central Street
17. Letter from Highway Surveyor to Board of Selectmen regarding 112 Central Street

*Minutes of the Board of Selectmen Meeting
December 16, 2013
Approved January 27, 2014*