TOWN OF BURLINGTON, MA
BOARD OF SELECTMEN
MINUTES
General Session - 5:30 p.m.
Burlington Town Hall, Main Hearing Room

MONDAY, DECEMBER 18, 2017

Board of Selectmen Present:  Christopher Hartling, Chairman; Joseph Morandi, Vice-Chairman; Robert Hogan; Michael Runyan; James Tigges
Also Present:  John Petrin, Town Administrator

GENERAL SESSION
Pledge of Allegiance
The Acting Chairman called the Board of Selectmen (BOS) meeting to order followed by the Pledge of Allegiance.

253  Appointment:  Departments

  ▪ Conservation Department
Conservation Director John Keeley was present with Eileen Coleman with a recommendation she be appointed as the new Assistant Conservation Administrator following the resignation of Heather Lis who was thanked by the BOS for the fine work she did for the Town.  Town Administrator John Petrin (T.A. Petrin) agreed with the recommendation and appointed Ms. Coleman as Assistant Conservation Administrator and recommended the BOS waive the standard 15-day waiting period.

Motion:  Selectman Morandi moved to waive the standard 15-day waiting period.  Seconded by Selectman Hogan and approved.  (5-0-0)

Appointment:  DPW
Director of DPW John Sanchez was present with Lead Foreman for Buildings and Cemeteries Rich Reid recommending that Mr. Reid be approved as the new Buildings and Cemeteries Superintendent upon the resignation of Paul Cauldwell.  The position would be set to start on January 15, 2018.  Mr. Sanchez described the many duties Mr. Reid has fulfilled in his over 30 years with the Town.  The members commented on their appreciation of his work.  T.A. Petrin agreed with the recommendation and appointed Rich Reid to the position of Buildings and Cemeteries Superintendent and recommended the BOS waive the standard 15-day waiting period.

Motion:  Selectman Morandi moved to waive the standard 15-day waiting period.  Seconded by Selectman Hogan and approved.  (5-0-0)

Appointment:  Boards and Commissions
  ▪ Historical Commission
Historical Commission member Lisa Buoncuore resigned and the commission recommended alternate member Peter Coppolla replace Ms. Buoncuore.  T.A. Petrin agreed with the recommendation and appointed Mr. Coppolla to fill this position which expires in 2019 and recommended the BOS waive the standard 15-day waiting period.
Motion: Selectman Morandi moved to waive the standard 15-day waiting period. Seconded by Selectman Hogan and approved. (5-0-0)

Appointment: Board of Registrars
Board of Registrar member Jeanne Ganley resigned and the Republican Town Committee has recommended Marianne Girouard fill this position which expires in 2019. T.A. Petrin agreed with the recommendation and appointed her to the Board of Registrars and recommended the BOS waive the standard 15-day waiting period.

Motion: Selectman Morandi moved to waive the standard 15-day waiting period. Seconded by Selectman Hogan and approved. (5-0-0)

Appointment: Board of Selectman Representative Appointment
Audit Committee/BOS Member
This committee to review government-side audits and was formed and by former BOS member Dan Grattan and he was the Selectmen representative. At this time the BOS recommend Selectman Tigges fill the position of Selectman representative to this committee. The members agreed this has been a productive process.

Motion: Selectman Morandi moved to appoint Selectman Tigges as Selectman representative to the Audit Committee. Seconded by Selectman Runyan and approved. (4-0-1 with Selectman Tigges abstaining)

254 Approval: Columbarium Rules and Fees
Mr. Sanchez was present seeking BOS approval of the draft of the Columbarium Rules and Fees. This has been an ongoing plan with many discussions being held, and staff has worked to get the best design. The structure will have the capacity for 700 niches for storing multiple numbers of deceased ashes and constructed of granite with a cobblestone border. The structure will belong to the Town with no deeds being issued to those purchasing niches. Former residents may be eligible to purchase. Sales may commence in January 2018.

Motion: Selectman Runyan moved to approve the Pine Haven Cemetery Columbarium rules and regulations. Seconded by Selectman Tigges and approved. (5-0-0)

255 Update: DPW Facility
The BOS had previous approved for a search for a DPW Highway barn. Meeting have been held with DPW and Recreation and the Recreation Commissioners voted to approve storing vehicles at the former Clark & Reid site on Meadow Road along with DPW vehicles. The current Highway facility will continue as is and take in some of the Water Department. The design has been submitted and a proposal is expected to be submitted at the May Town Meeting.

256 Signatures: Road Widening Easement/10 Corporate Drive
The Planning staff asked that this approval be placed on this agenda. The easement is for future use at the location of the approved 40B at 10 Corporate Drive. BOS has confirmed that the easement has been approved by Town Counsel and are awaiting approval from Engineering and Police Department.

Motion: Selectman Tigges moved to approve for Board of Selectmen sign-off on the Road Widening Easement, 10 Corporate Drive with the condition of approval from Engineering and Police. Seconded by Selectman Hogan and approved. (5-0-0)
Update/Approval: Fire Department/Advanced Life Support (ALS)

Fire Chief Steve Yetman and Assistant Fire Chief Mike Patterson were present seeking BOS approval to direct the Town Administrator and Fire Department to continue to move forward to implement a conversion to an Advanced Life Support ambulance service for July 2019 with a budget to support for FY 2020 and to seek the proper approvals from the State Office of Emergency Medical Services and Lahey Hospital as controlling hospital. They are also seeking authorization from the BOS for the Town Administrator to negotiate with the Fire Union to incorporate the position of Firefighter/Paramedic. A request is also before the BOS to approve to place and support an article for $260,000 from Free Cash for the January 2018 Town Meeting for training of current Firefighters/EMT's to become paramedics. It is hoped that those who wish to be certified may attend the academy in late summer/early fall for the 12 month program.

Selectman Morandi recommended that those on the civil service list have the opportunity to be eligible if they receive proper certification at their own expense. Resident Robert Matarazzo agreed with Selectman Morandi and recommended the those already on the Civil Service EMT list also be allowed to take the ALS course. Chief Yetman said they are moving in that direction.

Motion: Selectman Hogan moved to:
1.) direct the Town Administrator and Fire Department to implement a conversion to an Advanced Life Support ambulance service for July 2019 with a budget to support for FY 2020 and to seek the proper approvals from the State Office of Emergency Medical Services and Lahey Hospital as controlling hospital and
2.) to direct the Town Administrator to negotiate with the Fire Union to incorporate the position of Firefighter/Paramedic, and
3.) to support and place an article in the amount of $260,000 from Free Cash for the January 2018 Special Town Meeting for training of current Firefighters/EMT's to become paramedics.
Seconded by Selectman Tigges and approved. (5-0-0)

Public Hearing: Liquor License Revocation

1. Bonefish Grill, LLC d/b/a Bonefish Grill, 4A Wayside Road

Present was Attorney Joseph H. Devlin who is the attorney for negotiations to purchase the liquor license of Bonefish Grill for Darden. There was no representation for Wilder, Yard House or the 108 Middlesex Turnpike property or business. Comments and testimony was taken.

John Petrin, Town Administrator (T.A. Petrin)
- This is a posted revocation hearing for nonuse.
- Bonefish has been closed since January 2017.
- Town is not receiving financial funding from the food and liquor taxes. The Town collects $1.7M per year which is a major local receipt for revenue.
- Attorney Devlin has been providing updates as requested. The Town has informed him several times of its desire to put the license back in use.
- At the November 27, 2017 meeting the BOS were informed by the acting attorney present that the landlord at Wayside was going in a different direction and would not require this license to remain at this location.
- On December 18, the BOS received a letter from Wilder, Wayside's property management, stating that they were not going in a different direction and they do not want the license transferred from Wayside. The letter was entered into the record.
- Bonefish License was being brokered for sale to Darden's Yard House to be located at 108 Middlesex Turnpike, the current location of Chili's Restaurant.
Chili’s also holds a separate all alcohol liquor license and BOS has not been notified of a closure. The Town has been told that there are plans in the work to replace the current building with a new building to house a Yard House Restaurant. He was unable to provide any information as to the status of that Chili’s except to say that another law firm was representing that transaction. He had no knowledge as to the plans in the future for the liquor license already located at that location.

Attorney Devlin
- He has never seen the letter from Wilder.
- Bonefish had reached out to the landlord on several occasions.
- The landlord at Wayside still does not have a restaurant for the location so the issue of nonuse will continue.
- Bonefish was informed by Wilder that the neighboring restaurant was seeking to take over half of the Bonefish restaurant and the remaining space was not big enough for an all alcohol license. The landlord did not have a tenant, so Bonefish moved forward to broker the license to another location.
- Darden is the owner of Yard House. He has been working with them for 6-8 months to secure a license. They are proceeding with plans for an $8-10 M building at the Chili’s location, 108 Middlesex Turnpike, and cannot proceed with building permits without having secured a liquor license.

Selectman Hogan
- Asked about discussion being held about the availability of the Chili's license and what his thoughts were about there being no discussion.

Attorney Devlin
- Stated he has not been informed through the landlord that the Chili’s license is available and that there is a signed offer to purchase the Bonefish liquor license to be used at the Chili’s location.
- They expect to receive the Yard House signed purchase and sale agreement in 24 hours.

Selectman Morandi
- Not satisfied because the Chili’s location they are proposing already has a license and discussions should have taken place for that license to be used at the Yard House.
- Recommendation is to bring the license back to the town because of nonuse, hearsay and non-sharing of information.

Selectman Runyan
- Not satisfied and it is problematic that license is being auctioned off to the highest bidder leaving it out of the BOS's control.
- Would also like the license to be returned to the town.
- Would like Wilder to have an opportunity to find a tenant for the license at the space.

T.A. Petrin
- The BOS can revoke at this revocation hearing and the proponent has the right to appeal to the ABCC or
- Continue the hearing until the next meeting on January 8 to get more information or
- Close the hearing and not revoke.

Chairman Hartling:
- Licenses are tools of economic development.
- Not comfortable with process that is taking place.
• Concerned that this will be a problem for Wayside by creating a hole in that location and also that the BOS are receiving two different stories on this aspect.
• Not comfortable with attorney's statement that Chili's will be the Burlington location for Yard House without a solid plan that Chili's is closing.
• Concerned that this would create two all alcohol liquor licenses at one address.
• Not satisfied with this license going to the Chili's location thus creating another available license going through the process of selling to the highest bidder.
• No application has been submitted for Yard House.

Attorney Devlin
• Application for Yard House is not yet prepared.
• Bonefish has been clear with the Town that they were talking to Wilder and the landlord did not have a tenant. They still do not have a tenant which is not useful to the Town.
• ABCC will not approve an application to a location that has not yet transferred their license, so the Chili's license will be transferred.
• The improved building at the Chili's location will have a higher assessed value and there will be a larger restaurant operating there producing more meals taxes.
• He understands the Town's position, but if the license is revoked his only option will be to appeal the decision.
• If license revoked for nonuse, he described how the ABCC allows a six month period for the licensee to either use the license or transfer it.

Selectman Tigges
• Concerned that Wilder does not agree with what was told to the BOS in November and that all information is not being presented.
• The BOS was to get a fully signed P&S today, on the hearing date, but it was not received. Other than the single sheet offer with Bonefish's signature, no documentation to backup testimony provided.
• Attorney Devlin said Darden was not able to provide the signature for today. If requested, he will provide available emails.
• He has worked with this BOS 12-14 years and has always told it like it is.

T.A. Petrin Summarized
• Closed since January.
• No tenant for the Bonefish location.
• Bonefish now seeking to sell their license to a location that already has a license.
• Wilder does not want the Bonefish license to be sold to another location.
• No information received on any closing taking place at Chili's.
• No meals taxes being received and Town has fiduciary responsibility to citizens.

There were no questions from the public.

Motion: Selectman Runyan moved to close the public hearing. Seconded by Selectman Morandi and approved. (5-0-0)

Motion: Selectman Morandi moved to revoke the license of Bonefish Grill for non-use. Seconded by Selectman Runyan and approved. (3-2-0 with Chairman Hartling and Selectman Hogan opposing)

Public Hearing: Liquor License Revocation

Present was Attorney Paul Sporn representing applicant Joe Slezar for Burlington Beer Works. T.A. Petrin reviewed the history. Board expressed frustration with the amount of time that has elapsed. It was also noted that this shopping center is undergoing many changes. Attorney Sporn said this is a family, non-publicly traded business which has been acting in good faith under the very thorough departments of the Town. At this time the only remaining issue is the Special Permit for the increase in the size of the grease trap which requires Planning Board approval. If approved they are hoping to start construction in January. Anne Meyer was present representing the landlord and they also look forward to the opening of Beer Works and revoking license would be harmful. It was recommended to continue the hearing until January 22, 2018 with representatives of Burlington Beer Works being present to provide an update.

Motion: Selectman Hogan moved to continue the public hearing to January 22, 2018. Seconded by Selectman Runyan and approved. (5-0-0)

Public Hearing: Liquor License Revocation

3. Mac Acquisition, LLC d/b/a Romano's Macaroni Grill, 50 South Avenue

Present representing Romano's Macaroni Grill was Attorney Patricia Lang Farnsworth, Lawson & Weitzen, LLP for Attorney Andrew Upton Attorney, DiNicola, Seligson & Upton, LLP. She said the outstanding taxes had been paid. An application has been submitted to the BOS for the transfer of the All Alcohol License to Darden for Eddie V Restaurant. The members were satisfied that this license was now moving forward and progress will be taking place. There were no comments from the public.

Motion: Selectman Morandi moved to close the public hearing. Seconded by Selectman Tigges and approved. (5-0-0)

Motion: Selectman Morandi move to not revoke the license of MacAcquisition, LLC d/b/a Roman's Macaroni Grill, 50 South Avenue. Seconded by Selectman Tigges and approved. (5-0-0)

259 Approval: 2018 License Renewals:

- Alcohol • Amusement • Auto Class I • Auto Class II
- Cafeteria • Entertainment • Inn Holder • Livery
- Theater, • Victualler • Weigher,

Motion: Selectman Morandi moved to approve the following licenses for January - December 2018: Amusement, Auto Class I, Cafeteria, Entertainment, Inn Holder, Livery, Theater, Victualler, Weigher. Also approved are the licenses for Alcohol with the exception of the revoked Bonefish Grill License and approved are the licenses for Auto Class II with the exception of Burlington Motors (see following motion). Seconded by Selectman Hogan and approved. (5-0-0)

Motion: Selectman Hogan moved to approve the Auto Class II license for Burlington Motors through January 8, 2018 and that it be brought forward for a vote of approval at the January 8, 2018 following an inspection of the location. Seconded by Selectman Tigges and approved. (4-0-1 with Chairman Hartling abstaining)

260 Approve: New Year's Eve Extension of Hours
The BOS held a discussion with respect to Christmas Eve and New Year's falling on a Sunday and agreed to take a vote allow for a one-day extension of hours for Christmas Eve, December 24 until 8:00 pm. and New Year's Eve, December 31 until 11:00 p.m.

**Motion:** Selectman Morandi moved to allow for a one-day extension of hours for New Year's Eve, December 31, 2017 until 11:00 p.m. Seconded by Selectman Tigges and approved. (5-0-0)

**Motion:** Selectman Morandi moved to allow for a one-day extension of hours for Christmas Eve, December 24, 2017 until 8:00 pm. Seconded by Selectman Tigges and approved (3-2-0 with Selectmen Hogan and Hartling opposing)

### 261 Approve: FY2018 Financial Guidelines

Present were Paul Sagarino, Town Accountant and Brian Curtin, Town Collector/Treasurer to review the fiscal year 2017 budget closeout which has been before Ways & Means and the School Committee. T.A. Petrin said Ways & Means fully reviewed and voted a guideline of a 5% tax levy increase, 8.5% in Accommodated Accounts, and 3.25% increase in the General Budget to be blended between school and general government. T.A. Petrin said there items being addressed relative to the Accommodated Accounts for Fy 2019, which is the reason for the proposed 8.5% increase. There will be a smaller increase in the General Operating budget. There will be no changes to services.


Mr. Sagarino commented on the 5 year average tax levy increases and number of reserves for surrounding communities which indicates how well Burlington is doing. The BOS were satisfied with the FY 2019 Budget Guideline Scenarios and operating budget. The finance team was thanked for the fine work done.

**Motion:** Selectman Morandi moved to approve the FY 2019 Operating Budget Guidelines as approved submitted and approved by Ways & Means. Seconded by Selectman Tigges and approved. (5-0-0)

### 262 Presentation: OPEB

T.A. Petrin said Kathy Reilly, Actuary for the Town's OPEB liability account as well as the Town's retirement system provided an actuarial evaluation of the Town's OPEB account to Ways & Means on November 29, 2017. Changes have occurred and the new actuarial value at $91 million was approved. Funding will continue on a yearly basis and is factored into the budget. Funding can be amended at any time based on financial needs. At this time, Mr. Curtin said, the Town is meeting the recommended actuarial target and the fund is well diversified.

### 263 Approval: Government Review Committee Charge

The BOS reviewed the recommended as outlined in the charge of the Government Review Committee. It was recommended that the number of at-large from the community be increased from 2 to 4. The recommended representation of 9 members is as follows:

- 2 - Board of Selectmen
- 1 - Elected Official
- 1 - Ways & Means Committee Member
- 1 - Town Meeting Member
- 4 - At-large from the community
T.A. Petrin said the selection will take place in the beginning of the year with a report expected by June of 2018.

**Motion:** Selectman Tigges moved to approve the Charge of the Government Review Committee with an increase in members from the at-large from community increasing from 2 to 4 with a total number of members being 9. Seconded by Selectman Morandi and approved. (5-0-0)

264 Approve:  **Warrant Closing Date Extension**
It was agreed by the BOS to extend the date to submit zoning articles to November 7, 2017.

**Motion:** Selectman Hogan moved to extend the date of submission of zoning warrant articles to November 7, 2017. Seconded by Selectman Morandi and approved. (5-0-0)

265 Approval:  **Warrant Article Submissions January 2018 Town Meeting**
**Motion:** Selectman Hogan moved to approve the Warrant Article for January 22, 2018 as submitted. Seconded by Selectman Morandi and approved. (5-0-0)

266 Approval: Minutes:  **October 23, 2017 • November 13, 2017**
October 23, 2017
**Motion:** Selectman Hogan moved to approve the minutes of October 23, 2017 as submitted. Seconded by Chairman Hartling and approved. (3-0-2 with Selectmen Morandi and Runyan abstaining)

November 13, 2017
**Motion:** Selectman Hogan moved to approve the minutes of November 13, 2017 as submitted. Seconded by Chairman Hartling and approved. (4-0-1 with Chairman Hartling abstaining)

249  **Subcommittee Reports** -
Selectman Runyan as a year-end wrap up thanked his colleagues on the board, the Town Administrator and staff for a fine year. He mentioned the accomplishments of 33 Center Street, the on-going 61 Center Street, the new Fire Station 2 plans and the establishment of the ALS program and plans for additional housing.

Selectman Tigges comments on the completed 33 Center Street and movement of staff into the building. Selectman Hogan and all wished all well on the holidays.

250  **Town Administrator’s Report**
T.A. Petrin thanked the Town employees and said he is fortunate to work in this Town.

251  **Chairman’s Report** -
Chairman Hartling commented on taking time form meetings to enjoy the holidays.

252  **Old/New Business: None.**

**Citizen’s Time:** No one spoke.

Adjourn
Motion: Selectman Morandi moved to adjourn at 8:00 p.m. Seconded by Selectman Tigges and approved. (5-0-0)

Submitted by,

Betty McDonough, Recording Clerk
BURLINGTON, MA BOARD OF SELECTMEN
DOCUMENTS REVIEWED AT MEETING – MONDAY, DECEMBER 18, 2017

Agenda
253 Appointments: Departments; • Conservation Department, resume Eileen Coleman • DPW, memo from JS to JP re recommendation; Boards and Commissions • Historical Commission • Board of Registrars • Audit Committee/BOS Member
254 Approval: Columbarium Rules and Fees - Draft copy Pine Haven Cemetery Columbarium R&R
255 Update: DPW Facility
256 Signatures: Road Widening Easement/10 Corporate Drive - email from KK requesting to be put on agent; copy of easement with plot plan
257 Update/Approval: Fire Department/Advanced Life Support (ALS) - memo from JP to BOS re Fire Department ALS; ALS backup for TM
258 Public Liquor License Revocation: Hearings:
• 1. Bonefish Grill, LLC d/b/a Bonefish Grill, 4A Wayside Road - public hearing notice, 11/27/17 meeting discussion; follow up emails from Bonefish
• 3. Mac Acquisition, LLC d/b/a/Romano's Macaroni Grill, 50 South Avenue - public hearing notice, 11/27/17 meeting discussion; follow up emails
259 Approval: 2018 License Renewals: • Alcohol • Inn Holder, • Amusement • Livery, • Auto Class I • Theater, • Auto Class II • Victualler, • Cafeteria • Weigher, • Entertainment - memo from JP to BOS re process; 10/25 memo to staff re license renewal; memo from BM to BOS re entertainment licenses granted in 2017; liquor chart; licenses of S Madigan; email from Gerry McDonough re no issues; bylaw payment of taxes or assessments
260 Approve: New Year’s Eve Extension of Hours
262 Presentation: OPEB -
263 Approval: Government Review Committee Charge - Charge Government Review Committee DRAFT
264 Approve: Warrant Closing Date Extension
265 Approval: Warrant Article Submissions January 2018 Town Meeting - Warrant Article
266 Approval: Minutes: • October 23, 2017 • November 13, 2017
249 Subcommittee Reports -
250 Town Administrator’s Report -
251 Chairman’s Report -
252 Old/New Business -
Citizen’s Time - ADJOURN -