TOWN OF BURLINGTON, MA
BOARD OF SELECTMEN
MINUTES
General Session - 5:00 p.m.
Burlington Town Hall, Main Hearing Room

MONDAY SEPTEMBER 10, 2018

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

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

172  Approval:  Annual Request - Use of Landlocked Parcel
      Greater Boston Youth Mountain Bike Program
Paul Benson was present seeking approval to use the Landlocked Forest for a youth mountain bike training program on September 22 and September 29, 2018. There will be 30 students participating who have submitted signed releases. Police and Fire had no issues. They were approved the last few years and the event is very successful. Deer hunting season will start September 29 this year, and Selectman Morandi said he would talk with the hunters about this bike program taking place. Mr. Benson said that in the future he will attempt to have the program prior to the start of deer hunting season.

Motion:  Selectman Hogan moved to approve the annual request for the Use of the Landlocked Forest for the Youth Mountain Bike Program on September 22 and 29, 2018. Seconded by Selectman Morandi and approved. (5-0-0)

173  Approval:  Use of Town Common / Rosary Rally
Request received to use the Town Common on October 13, 2018 for a few hours starting at 12:00 noon. Police and Fire had no concerns and Recreation had no events planned on the common on that date.

Motion:  Selectman Hogan moved to approve the use of the Town Common on October 13, 2018 for a few hours starting at 12:00 noon. Seconded by Selectman Morandi and approved. (5-0-0)

174  Approval:  Water
John Sanchez, Director of DPW, was present.

MWRA Agreement - Lexington and Burlington:  Town Meeting had approved the process to join MWRA for supplemental water supply. The BOS reviewed an MWRA Inter-municipal Use Agreement between Lexington and Burlington which outlines the conditions on operational procedures and pricing for purchasing MWRA water through the town's connection with Lexington. An Environmental Notification Form (ENF) describing the supplemental-as...
needed basis process the town will follow and to alert permitting agencies that the town is joining MWRA will be finalized. Full connection may take up to five years.

**Motion:** Selectman Tigges moved to accept the MWRA Inter-municipal Use Agreement between Lexington and Burlington with the town administrator being allowed to sign on behalf of the Board of Selectmen. Seconded by Selectman Hogan and approved. (5-0-0)

**DPW Update:** Mr. Sanchez said the full water ban was lifted on August 1, 2018 and the town reverted back to the year-round even/odd water restriction. The operators at the water department were commended for their work during the summer. A recent leak at Mill Pond is in the process of repair.

**Truck Day:** Truck Day will celebrate its 20th anniversary on September 16. Nonperishable items are being collected for the Food Panty and will be accepted at a "fill the truck" destination.

**Road Work:** Work will start this week on the small number of roads that need to be completed. Work on hydrants will be completed this year.

**Yard Waste:** The week of September 24 is the last week for yard waste collection.

**Public Transportation:** Various transportation meetings are taking place with M3 communities to review transportation options for a study for the purpose of avoiding the elimination of bus service to residents. A public session will be held on September 17, and the public can complete the busing survey on the website.

**175 Update/Approval:** Trash

Attorney Mark Burke was present for the residents of the Oakridge Condominiums who are seeking consideration that the town be responsible for curb-side trash and recycling pick-up as is done for other developments. This was continued from the August 13, 2018 meeting to receive counsel opinion and a more in-depth analysis on the costs expected for this service from DPW.

Past board members had grandfathered and/or added in certain home-style and condo units into the trash pickup policy. Mr. Sanchez distributed the report which was broken down by garden style apartments and condos. T.A. Petrin said toter fees have also been included. There is an estimated annual amount due of $83,000 to cover the additional 353 units and a one-time toter fee of $40,000. An issue expressed was some units can only accommodate dumpsters and non-residents also leave their items at both the trash and recycling dumpsters. Selectman Tigges recommended making all efforts to correct the issue of non-residents using the containers.

The past and current legal counsel comments differed, and Attorney Burke objected to the current legal opinion which states it is not necessary to require all units be included in trash pickup.

Selectman Hogan said he is in favor of supporting this request but would prefer it be part of the Town Meeting budget discussion. Selectman Runyan also suggested having this discussion during budget season. The BOS agreed to the formation of a board subcommittee and continuing the policy discussion to the October 22, 2018 meeting. Each housing type will be discussed during the subcommittee meeting as well as renters vs. owners.

**Motion:** Selectman Morandi recommended continuing this discussion to October 22, 2018 to allow more time to study the request for a trash policy to cover inclusion of other residences as discussed. Seconded by Selectman Tigges and approved. (5-0-0)
Update:

Alcohol Licenses on Notice for Closed Establishments

- Besito Restaurants Burlington dba Besito Restaurant
  75 Middlesex Turnpike, Burlington Mall

An update letter was received from the restaurant owners stating they are negotiating for the transfer of the license.

- Uno Restaurants, LLC dba Uno Chicago Grill
  75 Middlesex Turnpike, Burlington Mall

An update letter was received from the restaurant owners stating they are negotiating for the transfer of the license.

- Knights of Columbus, 6 Blanchard Road

An update letter was received from their attorney stating they are under contract for a license transfer.

- Lester’s Roadside Bar-B-Q, Inc
dba Lester’s Roadside Bar-B-Q
376A Cambridge Street

Attorney Mark Burke, representing the license owner, Theodore Menounos, was present with the license owner. Attorney Burke said they are closed and in the process of turning the premises over to the landlord and are making plans for the transfer of their liquor license. The owner was reminded to keep the office staff up to date and to have an application submitted within six months.

Public Hearing:

Liquor License Revocation / Show Cause Public Hearing
Slesar Bros. Brewing Company, Inc.
d/b/a Burlington Beer Works, 34 Cambridge Street

Chairman Chris Hartling opened the show-cause public hearing with all five members of the board were present. Also present were Town Administrator John Petrin (T.A. Petrin) and Attorney David Deluca, Town Counsel. The owner of Burlington Beer Works (BBW), Joseph Slesar, was present with his attorney, Paul Sporn.

Attorney Deluca for the town said he spoke with the licensee’s attorney in August. In that time period he was also in contact with John Clancy, Inspector of Buildings, who said there were no permitting issues and that BBW had been informed in February and March of this year that the building permit was ready to be picked up but there was no response. Attorney Deluca continued that the town has followed a fair and systemic time line to provide the license holder the opportunity to exercise their rights under this license. He further acknowledged that a public hearing on this same issue had been held and closed without revocation more than six months ago on January 22, 2018 because the town had received confirmation that the permitting process was nearing completion and that construction would be commencing. This show-cause hearing will allow for the BOS to considering revoking the license or allowing the licensee more time.

Attorney Sporn said they would like to continue to negotiate with the broker for a more productive use of this license and added that the owner of the license had not broken any laws or abandoned the license. He asked that a Burlington Patch August 20, 2018 article be added to this record as it has BOS comments with respect to petitioners going before Town Meeting to seek additional alcohol licenses

T.A. Petrin added that the first public hearing was closed because he had received confirmation from the licensee's attorney that the permitting process was complete and construction would be starting shortly thereafter.
Selectman Hartling asked when it had been decided that they did not want to be at this location. Attorney Sporn said it became apparent to Mr. Slesar in October of 2017 with the announcement of the closure of Roche Bros.

T.A. Petrin asked if construction had started. Attorney Sporn said construction had not started. T.A. Petrin asked if there is currently an agreement with a company to present to the BOS tonight for the transfer of the license. Attorney Sporn responded that they did not yet have a written agreement.

Mr. Slesar said that prior to the building permit being issued in February, there were many delays because of staff requests. He continued that many changes were taking place at the shopping center, and he had lost business momentum for this location and decided to explore other options. At this time the brokers are working with a licensee known to the town. Mr. Slesar added that he would prefer the license not be revoked so that he can transfer the license to help recoup some of his expenses.

During this hearing Mr. Clancy confirmed that notification was sent in February and March of this year that the building permit was ready but there was no response. On August 3, 2018, three days prior to its expiration, the applicant's contractor picked up the permit. A written extension of time was submitted, but it did not include evidence for the delay proving issues had taken place beyond their control in order to justify the extension of time thus leaving no option for the town to extend the building permit.

Chairman Hartling said the BOS had been very patient as to how to approach this license.

No one from the audience spoke.

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

Attorney Deluca asked that the following be included with the records of this hearing.

- Information on the meetings that were held in November and December of 2017 and January 2018 and any other months;
- Correspondence that Mr. Clancy was referring to dated February and March 2018 which was directed to attorney requesting the building permit issued in February 2018 be picked up;
- Follow up correspondence [August 3, 2018 extension letter] from the applicant requesting an extension of time with said correspondence indicating there was a delay caused by permitting and other authorities;
- Mr. Clancy's August 14 email response to that August 3 extension letter indicating that by his investigation with other permitting agencies and offices there were no other obstacles to the building permit and construction process.

The BOS had no further comments.

Motion: Selectman Morandi moved to revoke the All Alcohol License of Slesar Bros. Brewing Company, Inc. d/b/a Burlington Beer Works, 34 Cambridge Street, for non-use and to include all documents as requested by the licensee and town counsel to the show cause public hearing information packet. Seconded by Selectman Tigges and approved. (5-0-0)
Interviews/Town Accountant Appointment:
The Board of Selectmen interviewed the two external candidates for the position of Town Accountant and Assistant Town Administrator with current accountant Paul Sagarino present: Karen Shree Barrett and John Danizio. The Selectmen presented each candidate with the same questions. T.A. Petrin said that Mr. Sagarino had interviewed the candidates with the interview committee. It is hoped to have a transition period with the new accountant starting November 1. The BOS had a brief discussion and selected a candidate.

**Motion:** Selectman Hogan moved to appoint John Danizio to the positions of Town Accountant.. Seconded by Selectman Morandi and approved. (5-0-0)

Mr. Sagarino also supported this candidate.

T.A. Petrin appointed Mr. Danizio to the position of Assistant Town Administrator for the Town of Burlington and requested the BOS waive the standard fifteen day waiting period..

**Motion:** Selectman Tigges moved to waive the standard fifteen-day waiting period for the appointment of Mr. Danizio to the position of Assistant Town Administrator. Seconded by Selectman Hogan and approved. (5-0-0)

Approval: September 24, 2018 (Special) Town Meeting

Items reviewed:

**Article 4: Chapter 194 Acts of 1986; Adoption of Town of Burlington Scholarship Fund**

Town Accountant Paul Sagarino summarized this Town Meeting article being proposed by Town Meeting members which is a request for approval to re-accept Chapter 94 of the Acts of 1984 to re-authorize the adoption of a town scholarship fund with the correct title of "Town of Burlington Scholarship Fund" (rather than "Foundation") in accordance with the state statute. The funds are still administered and invested by the treasurer and a committee will be formed, which is very specific in order to determine who is the recipient of the town check-off box scholarship fund. Jack Ferren, President of the Foundation does not appear to have any issues with this request. The Board of Selectmen will follow the statute and will be appointing a committee in accordance with the statute.

**Motion:** Selectman Hogan moved to support Article 4: Chapter 194, Acts of 1986, Adoption of Town of Burlington Scholarship Fund. Seconded by Selectman Morandi and approved. (5-0-0)

**Article 5: Town Treasurer - Change to Appointed Position**

Chairman Hartling noted the board had previously discussed this article. Selectman Hogan reviewed the process if this article is approved.

**Motion:** Selectman Hogan moved to support Article 5: Town Treasurer - Change to Appointed Position. Seconded by Selectman Runyan and approved. (4-0-1 with Selectman Morandi abstaining)

**Article 12:** Fund the Burlington Police Command Officers' Contract and Withdrawn.

**Article 14:** Fund the Burlington International Firefighters' Association Contract Withdrawn.
Article 15: PEG Cable Access Enterprise Fund: This is for the creation of a specific access fund for the cable companies. Funds collected from the cable companies will be deposited into this account.

Motion: Selectman Runyan moved to support Article 15: PEG Cable Access Enterprise Fund. Seconded by Selectman Morandi and approved. (5-0-0)

Article 16: Transportation Infrastructure Fund: This is a new fund based on a small amount received from Uber-types of service. The town is recommending that $10,000 be spent to support the bus transportation initiative between the communities.

Motion: Selectman Morandi moved to support Article 16: Transportation Infrastructure Fund. Seconded by Selectman Tigges and approved. (5-0-0)

Article 19: 117 South Bedford Street: T.A. Petrin explained that these funds were being requested in order to ensure that there are funds available to purchase the home and resell the home at this address and add it to our affordable housing inventory.

Motion: Selectman Tigges moved to support Article 19: 117 South Bedford Street. Seconded by Selectman Morandi and approved. (5-0-0)

Article 20: Payment of Prior Year Expenses: T.A. Petrin said town government administration is strongly recommending Article 20 be approved to pay $780,000 from Stabilization to cover overdrawn costs incurred by the School Department.

Motion: Selectman Morandi moved to support Article 20: Payment of Prior Year Expenses. Seconded by Selectman Tigges and approved. (5-0-0)

Article 22: Amend the FY 2019 Operating Budget: T.A. Petrin explained that Article 22 is not at this time being recommended and had originally been included for administration purposes. It is being recommended to Ways and Means that they vote no to Article 22.

Approval: Minutes:

June 14, 2018 Board of Appeals Interviews

Motion: Selectman Hogan moved to approve the June 14, 2018 Board of Appeals Interviews minutes. Seconded by Selectman Morandi and approved. (5-0-0)

June 25, 2018 Regular Session

Motion: Selectman Hogan moved to approve regular session minutes of June 25 2018. Seconded by Selectman Morandi and approved. (5-0-0)

July 16, 2018 Regular Session

Motion: Selectman Hogan moved to approve regular session minutes of July 16 2018. Seconded by Selectman Morandi and approved. (5-0-0)

August 13, 2018 Regular Session

Motion: Selectman Hogan moved to approve regular session minutes of August 13, 2018. Seconded by Selectman Morandi and approved. (5-0-0)
September 6, 2018 Special Session

Motion: Selectman Hogan moved to approve the special town meeting session minutes of September 6 2018. Seconded by Selectman Morandi and approved. (5-0-0)

181 Subcommittee Reports
Selectman Morandi reported that Archery Season at the Landlocked Forest will be October 1 to December 31, 2018.

182 Town Administrator's Report: None.

183 Chairman’s Report: None.

184 Old/New Business
The BOS followed up on a discussion about National Grid that took place at their August 13, 2018 meeting. Because of their concerns with the strike, employees being locked out, and National Grid's safety practices, Selectman Hartling recommended this be discussed further at their small cell meeting being held on September 17, 2018. The other members did not have an issue with adding this to that agenda.

Adjourn:
Motion: Selectman Hogan moved to adjourn at 9:00 p.m. Seconded by Selectman Runyan and approved. (5-0-0)

Submitted by,

Betty McDonough
Recording Clerk