BOARD OF SELECTMEN

MINUTES

General Session - 7:00 p.m.
Main Meeting Room, 2nd Floor, Town Hall

MONDAY, OCTOBER 27, 2014

Board of Selectmen Present: Daniel Grattan, Vice-Chairman/Acting Chair; Ralph Patuto; Michael Runyan; Christopher Hartling
Not Present: Robert Hogan, Chairman
Also Present: John Petrin, Town Administrator

The Board of Selectmen (BOS) meeting was called to order at 7:00 p.m. followed by the Pledge of Allegiance and a moment of silence for the members of the armed forces and emergency responders.

285 Discussion: Middlesex 3 Coalition

Present to provide an update was Stephanie Cronin, Executive Director, Middlesex 3 Coalition. The coalition, she said, is now made up of nine Middlesex County communities with the goal being to promote competitive advantages and advance economic growth of the Route 3 corridor. A Transportation Management Association (TMA) partnership has been formed between businesses and communities to join together to apply for grants and to develop target areas to promote business as well as reduce traffic through the improvement of transportation options.

Selectman Hartling said he appreciates the work being done with businesses. Selectman Runyan said he attends the informative coalition meetings forums, and Selectman Chair Grattan said that transportation is an important issue.

286 Approval: Health Insurance Rates for 2015

Present was Town Treasurer Brian Curtin who reviewed the town’s health benefits and trust fund. After having meetings and reviewing preliminary strategies and rates, and because of the unpredictability of medical claims, all town union representatives agreed to a recommended 3% increase in the health insurance rates of active members effective January 1, 2015 for all three plans: Blue Care Elect, Blue Cross, and Harvard Pilgrim

There are more members in the senior plans vs. active member plans. Rates for retiree plans are set by the insurance companies. Retiree health insurance rates went down last year, but are going up in January 2015.

With the recommendations from the Town Treasurer and the town’s unions, the BOS agreed to a 3% rate increase for active members. Mr. Curtin said that although the rates would become effective January 1, 2015, deductions would commence in December.
Motion: Selectman Patuto moved to approve the 2015 health insurance rate increases of three percent (3%) for each of the three active members' insurance plans, with the increase to become effective January 1, 2015. Seconded by Selectman Hartling and approved. (4-0-0)

287 Recognition 4th of July Parade Presentations

Selectman Runyan and Terri Clement, Co-Chairs of the 4th of July Parade Committee, presented plaques as a thank you for generous donations to the following: Burlington American Legion Post 273, Sponsor; Burlington Board of Selectmen and John Petrin; Wegmans, Lahey Clinic; Reimer & Braunstein; Gutierrez Co.; Herb Chambers; Olde Towne Liquors; and the Rotary Club of Burlington. All those who donated and volunteered to assist were also thanked.

288 Public Hearing: All Alcohol License, Alter of Premise

Papa Razzi, 2 Wall Street

Ken Cusson, Newport Harbor Corporation, was present representing Papa Razzi. Also present was Attorney Robert Buckley, Riemer Braunstein. Attorney Buckley explained the upgrading being done to enhance appearance and functionality of the premises. The proposal includes expanding and redoing the outdoor patio area and reconfiguration of the interior restaurant seating to improve patron circulation. There will be no change to the overall total seating capacity of 324. Town Administrator John Petrin (T.A. Petrin) said that staff had no relative comments.

There were no comments from the public.

Motion: Selectman Patuto moved to close the public hearing. Seconded by Selectman Runyan and approved. (4-0-0)

Motion: Selectman Patuto moved to approve the All Alcohol License, Alter of Premise for Papa Razzi, 2 Wall Street. Seconded by Selectman Runyan and approved. (4-0-0)

289 Public Hearing: All Alcohol License, Alter of Premise

Busa Liquors, 34 Cambridge Street

Present were Dan Busa, owner, Andrew Busa and Hillary Pugail were present seeking BOS approval to include additional space in the basement of the facility on their license. This area was not on the previously approved plan and was not in the description on their license. He explained that the request includes that wine tastings be allowed, but no sales will take place in this area.

T.A. Petrin said the BOS may continue this item since Inspector of Buildings, John Clancy, said this use is considered to be "assembly space" which requires Planning Board approval for a change of zoning use. Mr. Busa said they are in the process of applying to the Planning Board.

Selectman Patuto and Selectman Runyan discussed consideration to approve the request pending approval by the Planning Board for the change in use.
There were no comments from the public.

**Motion:** Selectman Patuto moved to close the public hearing. Seconded by Selectman Runyan and approved. (4-0-0)

**Motion:** Selectman Patuto moved to approve the All Alcohol License, Alteration of Premises for Busa Liquors, 34 Cambridge pending notification by the Planning Department that the basement use has been approved. Seconded by Selectman Hartling.

*Discussion:* Vice Chairman/Acting Chairman Grattan said he would prefer not to approve this request without final approval by the Planning Board per Building Department and Planning Board comments.

**Motion Passed:** 3-0-1 (with Vice Chairman/Acting Chairman Grattan opposing)

### 290 Hearing: All Alcohol License Violations
- The Bancroft
- Besito
- Burtons Grill
- Hilton Garden Inn Burlington
- Seasons 52

Police Chief Michael Kent said compliance checks for the serving of alcohol were conducted at thirty-five establishments, and the above five failed for not requesting identification. Chief Kent described the entire compliance process.

Present for Burtons Grill were Christopher Little, General Manager and Attorney Gregory Demakis of Demakis & Demakis seeking clarification. The server claimed the youth left the premises prior to the beer being delivered and paid for as per ABCC requirements during this operation. Mr. Little said he did not see a beer on the bar. Chief Kent said the officer's report indicated the alcohol was served. The officer was not present, and it was agreed to continue the hearing for Burtons Grill to the November 17, 2014 BOS meeting to allow for further investigation.

T.A. Petrin and Selectman Hartling asked why this was not addressed at an earlier meeting with Burtons Grill. Attorney Demakis said the general manager was not sure of the ABCC guidelines or aware of the significance of the event. Chief Kent explained that server training is received at his department, and the guidelines are read verbatim.

**Motion:** Selectman Patuto moved to continue the hearing for the All Alcohol License Violation for Burtons Grill to the Board of Selectman meeting of November 17, 2014 pending further investigation. Seconded by Selectman Runyan and approved. (4-0-0)

Selectman Patuto expressed disappointment that each location was either new or under new management and recommended retraining all employees with the expectation that standards will be set.
T.A. Petrin said these are all first time and the BOS policy calls for a suspension generally the first Monday after the hearing.

Attorney Demakis was present to also represent Hilton Garden. He said Monday is a very busy day at the Hilton and requested the penalty be allowed to take place on Sunday. Selectman Runyan recommended to not alter the day and all members agreed.

There were no further comments from the establishments or the public.

**Motion:** Selectman Runyan moved to close the public hearing for the Bancroft, Besito, Hilton Garden Inn, and Seasons 52. Seconded by Selectman Runyan and approved. (4-0-0)

**Motion:** Selectman Runyan moved to suspend the sale of alcohol at the Bancroft, Besito, Hilton Garden Inn, and Seasons 52 on Monday, November 3, 2014. Seconded by Selectman Hartling and approved. (4-0-0)

T.A. Petrin said letters would be sent to the establishments to address re-training. The BOS congratulated the remaining establishments for following proper procedures.

**291 (1 of 2) Hearing:** All Alcohol License, Change of Manager  
Not Your Average Joe’s, 2 Wayside Road

New general manager, Mike Halklotis was present and said he is new to Not Your Average Joe’s but has eighteen years of restaurant management background.

T.A Petrin asked Mr. Halklotis if he understood the town’s alcohol policy and that the serving of alcohol is subsidiary to the serving of a meal. He said he understood.

**Motion:** Selectman Hartling moved to approve the All Alcohol License, Change of Manager for Not Your Average Joe’s, 2 Wayside Road as submitted. Seconded by Selectman Patuto and approved. (4-0-0)

**291 (2 of 2) Hearing:** All Alcohol License, Change of Manager  
Tony C’s, 17 Third Avenue

Russell Davis, new manager, was present with Attorney Jeremiah Sullivan who was representing Tony C’s. Mr. Sullivan explained that Tony C’s is not yet opened and the manager formerly approved by the BOS was no longer with the company. Mr. Davis, he said, is a regional manager for the Cronin Group and manager of another restaurant in Lynnfield but would be managing Tony C’s when it opens this winter.

Mr. Davis said he had twenty-five years in the restaurant business and has both worked and owned restaurant businesses in Louisiana. He has moved to this area to assist with the opening of another restaurant in Boston and joined Cronin Group to assist with the opening as the onsite manager of Tony
Câ€™s. T.A Petrin asked Mr. Davis if he understood the townâ€™s alcohol policy and that the serving of alcohol is subsidiary to the serving of a meal. He said that he has reviewed and understands the townâ€™s alcohol regulations.

**Motion:** Selectman Hartling moved to approve the All Alcohol License, Change of Manager for Tony Câ€™s. Seconded by Selectman Patuto and approved. (4-0-0)

292 Hearing: Charity Wine License
Greater Boston, YMCA North Suburban Branch

The North Suburban YMCA in Woburn submitted a request to hold a fund raiser on Friday, November 14, 2014 at the Burlington Marriott Hotel, and their request includes the serving of ten cases of donated wine to be served by the Marriott Hotel staff. This event requires approval by the BOS and the ABCC for a Charity Wine Pouring Permit.

**Motion:** Selectman Patuto moved to approve the request for a Charity Wine License for the Greater Boston YMCA North Suburban Branch for a fund raising event taking place on Friday, November 14, 2014 Burlington Marriott Hotel. Seconded by Selectman Hartling and approved. (4-0-0)

293 Public Hearing Grant of Location
(1 of 2)
National grid/Meadowcroft Road

There were no representatives present for Nationalgrid for the Grant of Location on Meadowcroft Road. T.A. Petrin said Engineering reviewed the request, had no concerns and submitted the standard conditions for this request for an extension of a gas main 80â€ to serve #9. Selectman Runyan said he had reviewed and had no issues.

There were no comments from the public.

**Motion:** Selectman Patuto moved to close the public hearing. Seconded by Selectman Hartling and approved. (4-0-0)

**Motion:** Selectman Patuto moved to approve the Grant of Location to Nationalgrid as submitted for Meadowcroft Road to serve #9 with the conditions as outlined by the Burlington DPW Engineering Department. Seconded by Selectman Runyan and approved. (4-0-0)

293 Public Hearing Grant of Location
(2 of 2)
National grid/North Avenue

T.A. Petrin explained that a request for a Grant of Location was submitted by Nationalgrid for the installation of approximately 375â€ of 2â€ plastic pipe to supply gas to numbers 31 and 51 North Avenue in Northwest Park. It was noted that the request stated it was for houses, but the request is actually for business establishments at 31 and 51 North Avenue. Engineering reviewed the request, had no concerns, and submitted the standard conditions.
Motion: Selectman Patuto moved to close the public hearing. Seconded by Selectman Runyan and approved. (4-0-0)

Motion: Selectman Patuto moved to approve the Grant of Location to Nationalgrid as submitted for 31 and 51 North Avenue with the conditions as outlined by the Burlington DPW Engineering Department and with the correction on the Grant of Location application that the request is for business establishments at 31 and 51 North Avenue. Seconded by Selectman Runyan and approved. (4-0-0)

294 Public Hearing Grant of Location Comcast/Second Avenue

Present representing Comcast was David Flewelline. Comcast is seeking BOS approval for a Grant of Location to place 2-4" PVC conduits from utility pole #264/1,790’ northeasterly along the east side of Second Avenue in the town's right of way for the purpose of offering Comcast services to the businesses along Second Avenue as per specifics described in submitted request.

T.A. Petrin said no significant comments were received from staff.

The hearing was opened to the public. Scott Weiss, Managing Director of Commercial Development at the Gutierrez Company said they had recently installed sidewalks in the abutting area, and he was concerned about the room remaining for the installation of the conduit.

The petitioner said they would be behind the sidewalk but, if necessary, they would replace damaged sidewalks.

T.A. Petrin recommended the hearing be continued to allow these issues to be addressed by Engineering, but Mr. Weiss did not wish their work to be delayed and said he would contact Engineering with his questions. The BOS agreed to approve the request pending review of Engineering.

Motion: Selectman Patuto moved close the public hearing. Seconded by Selectman Hartling and approved. (4-0-0)

Motion: Selectman Patuto moved to approve the Grant of Location as requested pending the review of Engineering as discussed and that the abutter meet with Engineering prior to the boards next meeting. Seconded by Selectman Hartling and approved. (4-0-0)

295 Approval: 24 Hour Opening Special License

Lisa Smith, Manager for Kohl's of Burlington, was present with Sarena Bearce, District Manager of Kohl's Department Stores. This discussion was a continuation from the BOS meeting held on October 6, 2014. T.A. Petrin reviewed the Temporary 24 Hour License for the Retail Establishment that had been drawn up with Town Counsel outlining the capacity of the permit along with conditions.
The BOS reviewed the dates as well as the conditions. Conditions 2. and 3. described additional emergency staffing that could be necessary if other stores submit requests to remain open for additional hours. Ms. Smith and Ms. Bearce said they understood that the license holders would be responsible for additional emergency staffing costs.

**Motion:** Selectman Patuto moved to approve the special Temporary 24-Hour License for Retail Establishments with the dates and conditions as written. Seconded by Selectman Runyan.

**Discussion:** Selectman Hartling said he is opposed to allowing 24-hour openings at retail establishments as stated at the previous meeting.

**Motion passed.** (3-1-0 with Selectman Hartling against)

### 296 Approval: Liquor Store Alcohol Licenses/Store Extension of Hours

Present were Bill Congdon, Vice President/Division Manager New England for Wegmans Food Markets Inc., Kevin Russell Store Manager, and Attorney Greg Demakis representing Wegmans. This item was a continuation from the meeting of October 22, 2014 at which time Wegmans was seeking BOS consideration for approval to allow stores to remain open for sales on Sunday after 6:00 p.m. on a permanent basis.

Mr. Congdon said their other stores have been successful during that time period, and they are looking to provide this convenience to their customers.

At the previous meeting, Selectman Patuto said the BOS alcohol subcommittee would not be in favor of recommending a change to the Sunday hours as it may create certain hardships to other establishments who may have to hire new employees or it could be taking employees away from their families.

Attorney Demakis said there does not appear to be opposition in the town and that shopping for alcohol to partner with foods was part of the Wegmans experience.

Selectman Runyan agreed with not changing the policy as the majority of liquor stores in town are small operations who may not be able to afford the extra pay on Sunday.

Selectman Hartling agreed stating the town is quiet and there could be safety concerns, and residents do not equate Sunday night with alcohol and said he would also be against changing the policy.

Selectman Grattan said he is not in favor of protectionism with respect to the other establishments, and consumers should be given the opportunity to shop after hours if it can be made available. However, given potential safety factors, he would be inclined to vote against the request.

**Motion:** Selectman Patuto moved to make no change to the policy with respect to the selling of alcohol at liquor establishments after 6:00 p.m. on Sunday. Seconded by Selectman Hartling and approved. (4-0-0)
Information: Matt Frost

Town Meeting Members Matt Frost and Steve Stamm were present. Mr. Frost distributed information and opinions on future obligations, capital assets, infrastructure and maintaining level of service. He reviewed the town's operating budget and recommended setting guidelines for smaller increases in the departmental operating budgets.

T.A. Petrin said the BOS will be working with staff and boards to discuss recommendations for guidelines to set the tax rate, and Mr. Frost's information would be included for review.

Approval:

Minutes
October 6, 2014
October 22, 2014

Motion: Selectman Patuto moved to approve the October 6, 2014 general session minutes as submitted. Seconded by Selectman Runyan and approved. (4-0-0)

Motion: Selectman Patuto moved to approve the October 22, 2014 general session minutes as submitted. Seconded by Selectman Hartling and approved. (4-0-0)

Subcommittee Reports

Selectman Runyan said the fall yard waste pick up program started last week and will run through the end of November.

The facilities department has been making improvements and installing a new energy program at the fire station.

The governmental mid-term election will be held on Tuesday, November, 12, 2014.

Jodi Keene was thanked for her work with Conservation. She is moving out of state and has accepted another position.

Selectman Hartling: Wegmans was congratulated for their successful opening day event where more than thirty detail officers were on hand. All went smoothly.

Selectman Grattan: Further action has been delayed with respect to the request for approval to clear and protect the meadow within the Landlocked forest as they continue to investigate cost efficient ways to clear the area.

Town Administrator’s Report

The Board of Health staff and Burlington Reserve Corps were congratulated on a successful flu clinic.
301 Chairman’s Report

None.

302 New/Old Business

None.

283 Citizen’s Time

No one spoke.

ADJOURN

Motion: Selectman Patuto moved to adjourn at 9:10 p.m. and the motion passed. (4-0-0)

Respectfully submitted,

Betty McDonough
Recording Clerk
BURLINGTON, MA BOARD OF SELECTMEN
DOCUMENTS REVIEWED AT MEETING ì MONDAY, OCTOBER 27, 2014

Agenda
285 Discussion: Middlesex 3 Coalition ñ handout - M3C Transportation Management Assoc FAQ
286 Approval: Health Insurance Rates for 2015 Charts: Health Ins. Proposed Rate
287 Recognition: 4th of July Parade Presentations
288 Recognition: 4th of July Parade Presentations (plaques for donors distributed)
289 Public Hearing: All Alcohol License, Alter of Premise/Papa Razzi, 2 Wall Street ñ 10/15/14 memo from jp to staff and responses; public hearing notice (to be published 10/14/14); 10/6/14 ltr to jp from Riemer & Braunstein re alteration of premises; Petition for Change of License; Papa Razzi Clerk Certificate and Director ð written consent; seating site plan
290 Public Hearing: All Alcohol License, Alter of Premise/Busa Liquors, 34 Cambridge Street ñ 10/15/14 memo from JP to staff and required responses; public hearing notice (to be published on 10/14/14); 10/6/14 ltr to town from Posternak re alteration of premises; Petition for Change of License; written consent of the directors; seating floor plan
291 Hearing: All Alcohol License Violations ñ hearing instr.; 10/6/16 memo to JP from M Kent re alcohol compliance violations; 9/30/14 memo from K Cooney to MK re: alcohol compliance check, compliance log and financial summary memo for undercover services; incident reports
292 Hearing: All Alcohol License, Change of Manager ñ Not Your Average Joe ð, 2 Wayside Road ñ 9/26/14 ltr to BOS from NYAJ re change of manager; Petition for Change of License w Personal Information Form and Manager Application; personal i.d.; NYAJ clerk certificate; Servsafe certificate;

293 Hearing: Charity Wine License/Greater Boston, YMCA North Suburban Branch ñ 10/6/14 ltr from YMCA to BOS re charity wine pouring permit; Charity Wine License Application; Certificate for Solicitation; 7/10/14 Certificate of Good Standing and/or Tax Compliance for YMCA; 10/7/14 acceptance ltr from Marriott
294 Public Hearing: Grant of Location/Nationalgrid ñ Meadowcroft Road ñ 10/17/14 memo from JP to THayes re receipt of Grant of Location req; ltr from Nationalgrid to BOS; 10/16/14 memo from JP to abutters; abutters list; Petition of Nationalgrid for gas main locations; Nationalgrid proposed plan
- North Ave ñ 10/27/14 memo re Grant of Location application; 10/20/14 email from TH to PG re Grant of Location review; 10/17/14 memo from JP to TH re Grant of Location North Ave; ltr from National grid to BOS; Petition of National Grid for Gas Main Locations; abutters list; Nationalgrid proposed plan
295 Public Hearing - Grant of Location/Comcast/Second Avenue; 10/27/14 grant of location grant of Location application letter; 10/20/14 email from TH to PG re grant of location review; 10/20/14 ltr from JP to TH re GOL 2nd Ave; 10/20/14 abutter letter from JP; 10/16/14 ltr from MIRRA to BOS re GOL 2nd Ave; Order for GOL proclamation from Comcast; list of abutters; aerial site picture
Approval: 24 Hour Opening Special License 10/27/14 ltr from town to Kohl’s re Burlington General Bylaw Article XIII Section 1.41; 10/6/14 email from Kohls to PG re 24 hour bylaw; copy of bylaw passed at May 2014 Town Meeting; 9/23/14 ltr from Kohls to BOS re 24 hour opening request; 9/18/14 copy of payment for license fee

Approval: Liquor Store Alcohol Licenses/Store Extension of Hours-

Information: Matt Frost- Handouts: Mr. Frost's numbers for Long-term cash requirements per household on top of operating budgets; 10/21/14 email from MF re Burlington debt; statistics from Mass. State Household Income/Dept of Numbers website

Approval: Minutes - October 6, 2014 and October 22, 2014

Subcommittee Reports -

Town Administrator’s Report -

Chairman’s Report -

New/Old Business -

Citizen’s Time