BOARD OF SELECTMEN
MINUTES - GENERAL SESSION
MAIN MEETING ROOM, 2ND FLOOR
29 CENTER STREET
BURLINGTON, MA

MONDAY, APRIL 22, 2013

Board of Selectmen Present: Robert Hogan, Chairman; Michael Runyan, Vice-Chairman; Ralph Patuto, Daniel Grattan, Christopher Hartling

Also Present: John Petrin, Town Administrator

Pledge of Allegiance/Moments of Reflection: The General Session of the Board of Selectmen (BOS) was called to order at 7:00 p.m. by Chairman Hogan followed by the Pledge of Allegiance and a moment of silence for the armed forces and service people serving in harm's way and to recognize the tragic events that took place at the Boston Marathon and the work of emergency responders, hospital staff and bystanders. Selectman Patuto started the traditional reflection, and Selectman Hogan suggested expanding it to include emergency responders.

101 Recognition: Burlington High School Boys Hockey Team
Division 1 State Boys Hockey Title

The Burlington High School Boys Hockey team members, coaches and managers were congratulated by the Board of Selectmen (BOS) on achieving their second consecutive Division 1 State Boys Hockey Title and each were presented with a certificate of commendation.

102 Public Hearing: All Alcohol License/Transfer of License
Millican-Mackenzie Post 273 of the American Legion to Besito Restaurant
75 Middlesex Turnpike/Burlington Mall

Attorney Mark Vaughan, Reimer & Braunstein, was present representing Besito Restaurants of Burlington, LLC which is seeking BOS authorization to transfer the All Alcoholic Beverages License currently issued to the Millican-McKenzie Post 273 of the American Legion to the Licensee of Besito Restaurants Burlington, LLC.

Selectmen Hogan and Runyan are members of the American Legion and Selectman Hogan said he confirmed with Legal Counsel that they were eligible to vote on this request.

Besito will be located in the Burlington Mall. Also present was John Tunney who is applying as Manager of Record. Selectman Grattan asked Mr. Tunney about his address being listed as New York. Mr. Tunney replied he will move to this area until a regional person is hired. He expects Besito to open in late summer. A minor modification is being made to the entry area.

Board of Selectmen:
Robert Hogan, Chairman • Michael Runyan, Vice Chairman • Ralph Patuto • Daniel Grattan • Christopher Hartling
Town Administrator, John Petrin, (T.A. Petrin) said no comments were received after notifying the required departments and that Besito has a Special Permit from the Planning Board.

The Chair opened the hearing to the public and there were no comments.

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

Motion: Selectman Patuto moved to approve the All Alcohol License Transfer from the Millican-Mackenzie Post 273 of the American Legion to Besito Restaurant, 75 Middlesex Turnpike. Seconded by Selectman Hartling and approved. (4-0-1 with Selectman Runyan abstaining)

103 Public Hearing: All Alcohol License/Transfer of License
   Millican-Mackenzie Post 273 of the American Legion
   162 Winn Street

Kirk Post, Facilities Manager, Stephen DuPuis, American Legion President, and Board Member, Gary Cauldwell were present seeking authorization from the BOS to acquire an All Alcohol Veterans Club License in accordance with MGL Chapter 138, Section 12. There will be no changes to the building. The American Legion transferred their All Alcoholic Beverages License to Besito Restaurants of Burlington, LLC.

Selectman Patuto was satisfied that all the paperwork was in order. T.A. Petrin said no comments were received after notifying the required departments.

The Chair opened the hearing to the public and there were no comments.

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

Motion: Selectman Patuto moved to approve the Veterans Club All Alcohol Veterans Club License as per MGL Chapter 138, Section 12 for the Millican-Mackenzie Post, 273 of the American Legion, 162 Winn Street. Seconded by Selectman Hartling and approved. (4-0-1 with Selectman Runyan abstaining)

104 Public Hearing: All Alcohol License/Transfer of License
   The Ginger Pad to Bonefish Grill
   75 Middlesex Turnpike/Burlington Mall

Joseph Devlin, Demakis Law Office, P.C., was present representing Bonefish Grill, LLC, which is seeking BOS authorization to transfer the All Alcoholic Beverages License currently issued to the Ginger Pad for use at Bonefish Grill.
Bonefish Grill will be located in the location of the Ginger Pad at the Wayside Mall. Also present was Daniel Foster, Director of Construction for the company's Tampa headquarters and Eric Bush, General Manager and Manager of Record on the liquor license. Attorney Devlin said that Bonefish Grill is a fine dining establishment with approachable prices, and they provide a high-end wine list. The premises will be redesigned with Bonefish décor. The expected timeline for opening at this time is fourteen weeks.

Mr. Bush said he lives locally, is ServSafe certified but not yet TIPS certified. The staff will be TIPS trained in Burlington. He has been trained at other Bonefish Restaurants. With respect to the floor plan, there will be a patio to include an exit for emergencies only.

T.A. Petrin said no comments were received after notifying the required departments.

Selectman Patuto reminded Mr. Bush that the Police Department must be contacted in order to review the I.D. system.

Selectman Hogan commented on the large number of seating in the bar area, and T.A. Petrin suggested this section of the plan be re-identified to clearly identify the bar section and the dining area so that the dining area does not appear to be an extension of the bar. Mr. Devlin and Mr. Foster said they understood and this would be corrected.

The Chair opened the hearing to the public and there were no comments.

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

Motion: Selectman Patuto moved to approve the All Alcohol License transfer from the Ginger Pad to Bonefish Grill. Seconded by Selectman Grattan and approved. (5-0-0)

105 Approval: Refinance - 121 South Bedford Street

This issue was postponed from the BOS’s March 25, 2013 meeting because of the concern that the loan request is bringing the home closer to market value thus creating a potential liability for the town. It was recommended at that meeting that the homeowner submit more documentation and discuss the issue with the administration and staff and to return to the BOS with more information.

T.A. Petrin explained that the owner provided more documentation and said the owner will be refinancing what is owed on the property. He will be saving a significant amount per month, and it appears he is doing the right thing and his recommendation, per consultation with Town Counsel, was to approve the request to refinance.

Motion: Selectman Patuto moved to approve the refinance at 121 South Bedford Street per documentation submitted for this meeting. Seconded by Selectman Grattan and approved. (5-0-0)
106 Approval:  4th Annual Garden Club Plant Sale

The Burlington Garden Club submitted a request seeking authorization from the BOS to use the grass/lawn area in front of the Human Services Building on May 18 from 12 noon to 3:00 p.m. for the Garden Club’s annual plant sale.

Motion: Selectman Patuto moved to approve the use of the grass/lawn area in front of the Human Services Building on May 18 for the 4th Annual Garden Club Plant sale. Seconded by Selectman Hartling and approved. (5-0-0)

107 Approval:  The Bark Relay for Life

Cheryl Shafman was present seeking BOS authorization to use the Town Common on May 11, 2013 from 9:00 a.m. to 1:00 p.m. for the Bark Relay for Life, a fund raising event to honor the care giving qualities of canine companions and their support system for cancer victims. Walkers and pets will walk, rain or shine. Participants will be walking on the outside perimeter of the Town Common. She said they were reaching out to different pet vendors for involvement in the event. The sponsors will be responsible, she said, for cleaning the town common.

T.A. Petrin said no comments were received after notifying the required departments.

Motion: Selectman Patuto moved to approve the use of the Town Common for the Bark Relay for Life on May 11, 2013 from 9:00 a.m. to 1:00 p.m. Seconded by Selectman Grattan and approved. (5-0-0)

108 Approval:  Street Opening - 11 Birchcrest Street

Erin Doherty was present representing William and Patricia Doherty who are seeking BOS approval for a permit for a street opening as they connect from oil to natural gas. She said the DPW Engineering Department's conditions were received and are understood.

Motion: Selectman Patuto moved that the BOS approve the street opening for 11 Birchcrest Street as presented with the conditions as requested by the Burlington DPW Engineering Department on their April 22, 2013 Street Opening report. Seconded by Selectman Runyan and approved. (5-0-0)

109 Approval:  Street Opening - Sumpter Road

Philip Cormier was present seeking BOS approval for a permit for a street opening for water and sewer connections. He said he is in the process of acquiring the lot on the corner of Sumpter Road and County Road. No number has been issued to the property at this time. He said the DPW Engineering Department’s conditions were received and understood.

Motion: Selectman Grattan moved that the BOS approve the street opening for Sumpter Road Street as presented with the conditions as requested by the Burlington DPW Engineering Department on their April 22, 2013 Street Opening report. Seconded by Selectman Runyan and approved. (5-0-0)
Approval: Alcohol Free Weekend

Charles Franich and Marilyn Belmonte, two of the three co-chairs of Burlington’s Alcohol Task Force, were present seeking BOS authorization to use Burlington’s Town Common for that organization’s 10th Annual Alcohol-Free Weekend starting Friday, April 26. Mr. Franich will be retiring later this year, and the BOS thanked him for his hard work and commitment.

Motion: Selectman Patuto moved to support Burlington’s Alcohol Task Force’s 10th Annual Alcohol-Free Weekend, April 26-28. Seconded by Selectman Grattan and unanimously approved. (5-0-0)

Approval: Interfaith Gathering on Town Common
Saturday, April 27, 2013

The Reverend Rod MacDonald, Presbyterian Church of Burlington was present, representing the town’s Interfaith Clergy group, seeking BOS support for a community Interfaith Service to be held on Burlington’s Town Common on Saturday, April 27, 2013, from 6:00 to 6:30 p.m. in memory and support of those affected by the Boston Marathon bombings.

Motion: Selectman Patuto moved to approve and support an Interfaith Service at the Town Common on Saturday, April 27, 2013, 6:00-6:30 p.m. Seconded by Selectman Hartling and unanimously approved. (5-0-0)

T.A. Petrin asked Reverend MacDonald to coordinate the event with the Police Department.

Vote: Warrant Review

T.A. Petrin gave an overview of General Articles, Financial Articles and General Bylaw Articles under the BOS’s jurisdiction.

Article 2 - Re: Home Rule Petition

With respect to a petition to the General Court for additional alcoholic beverage licenses, T.A. Petrin explained that the legislative committee on licensure is only granting additional licenses to communities for site specific locations and in consideration of how to move forward, he suggested a business and professional subcommittee be formed to review and discuss options relating to site specific locations and recommended this issue be postponed. The BOS recommended postponing Article 2.

Motion: Selectman Patuto moved to postpone Article 2, Home Rule Petition, indefinitely. Seconded by Selectman Hartling and approved. (5-0-0)

Article 7 - $500,000 Re: Water Distribution System Upgrades

This Article is a request provide the requested fund to upgrade the Water Distribution System Upgrades.
Motion: Selectman Patuto moved to approve Article 7 in the amount of $500,000 for Water Distribution Upgrades. Seconded by Selectman Grattan and approved. (5-0-0)

Article 8 - $87,085  Re: Grandview Farm Debt Service

This Article is a request to transfer $87,085 from the Land Exchange Development Agreement Fund from the Gutierrez Company for the purpose of paying the Fiscal Year 2014 debt service on the town's July 1, 2009 Grandview Remodeling Bond.

Motion: Selectman Grattan moved to approve Article 8, $87,085, for the Grandview Farm Debt Service. Seconded by Selectman Patuto and approved. (5-0-0)

Article 9 - $4,961,962  Re: Sewer Services Enterprise Fund

MWRA Assessment

The MWRA has assessed this amount to operate the Fiscal Year 2014 Sewer Services Enterprise to maintain town systems and this amount is being requested to be transferred from the Sewer Services Enterprise Estimated Revenue Account.

Motion: Selectman Grattan moved to approve $4,961,962 for the Sewer Services Enterprise Fund. Seconded by Selectman Runyan and approved. (5-0-0)

Article 10 - $98,560  Re: Sewer I/I Fund

To request to transfer from the Sewer Inflow/Infiltration fund the amount of $98,560 in order to pay the Fiscal Year 2014 debt service on the town's existing 0% MWRA loans.

Motion: Selectman Grattan moved to approve Article 10 in the amount of $98,560 to pay the FY14 MWRA debt service loan. Seconded by Selectman Patuto and approved. (5-0-0)

Article 11 -  Re: Collaborative Disposal Five-Year Municipal Solid Waste Contract:

To approve contracting for municipal solid waste disposal for an additional five years. The amount is yet to be assigned.

Motion: Selectman Patuto moved to approve Article 11, Collaborative Disposal Five-Year Municipal solid Waste Contract. Seconded by Selectman Runyan and unanimously approved. (5-0-0)

Article 12 - $1,650,000  Re: Chapter 90

To fund roadway improvements using Chapter 90 funds up to $1,650,000.
Motion: Selectman Patuto moved to approve the use of Chapter 90 funds, up to $1,650,000, for roadway improvements. Seconded by Selectman Grattan and approved. (5-0-0)

Article 14 - $45,848 Re: Fund the Burlington Police Patrolmen’s Association Contract

It is anticipated that this contract will be finalized in time for Town Meeting.

Article 15 - Re: Property Due Diligence

To amend Article 14 of the January 23, 2012 Town Meeting in order to include the search for a suitable fire station in funding the due diligence activities in the search for a DPW facility.

Motion: Selectman Patuto moved to approve Article 15, with respect to Property Due Diligence. Seconded by Selectman Grattan and unanimously approved. (5-0-0)

Article 16 - $700,000 Re: Purchase of Building

This Article relates to the potential addition to the town campus through the purchase of 33 Center Street. The town is currently in the final aspects of negotiations with the owner. This request is to cover the purchase cost and does not include the cost for potential renovation for the relocation of the Board of Health and Burlington Community Life Center from the Human Services Building.

Motion: Selectman Patuto moved to approve Article 16, Purchase of Building, $700,000. Seconded by Selectman Hartling and approved. (4-0-0 with Selectman Grattan not present to vote)

Article 19 - $10,000 Re: Fourth of July Parade

This request is to seek Town Meeting approval for $10,000 to pay the expenses associated with the 4th of July Parade.

Motion: Selectman Patuto moved to approve Article 19, $10,000, for the Fourth of July Parade. Seconded by Selectman Runyan and approved. (4-0-0 with Selectman Grattan not present to vote)

Article 20 - Re: Amend General Bylaw, Article XIV, Section 4.2.2, Earth Removal, Earth Moving and Addition of Fill

This request to amend the General By-Law was the result of litigation and was recommended by Town Counsel and would allow the BOS to waive strict compliance when the applicant demonstrates that doing so serves the public interest and will not compromise the goals and objectives of the by-law. John Clancy, Inspector of Buildings, reviewed and assisted with language clarification.

Selectman Patuto asked if all terms are defined in the bylaw, and T.A. Petrin replied that they were.
**Motion:** Selectman Patuto moved to approve Article 20 to amend Article XIV, Section 4.2.2 of the General Bylaw pertaining to Earth Removal, Earth Moving and Addition of Fill. Seconded by Selectman Runyan and approved. (4-0-0 with Selectman Grattan not present to vote)

**Article 22**
Re: Support a Constitutional Amendment to Stipulate that Corporations are Not People and Do Not Enjoy the First Amendment Rights of People

Town Meeting and Land Use Committee Member, Sally Willard, was present to review this request for a vote from Town Meeting to support a resolution for an amendment to the U.S. Constitution, and if the article passes, to direct the BOS to send a supporting letter to Burlington's U.S. Representative and U.S. Senators so indicating said support.

**Article 23**
Re: Non-Zoning Wetlands Protection Bylaw Article XIV

Conservation Administrator, John Keeley, was present to review the proposed revision to Burlington's General Bylaws. He explained that the bylaws are bringing brought up to date, not only to match the Massachusetts DEP bylaws, but also to include additional protections and to make the process more streamlined for resident. A number of public hearings were held with many positive comments, including those from the business community, being accepted and incorporated into the update.

Being his subcommittee, Selectman Runyan, stated that the Conservation Commission has put a great deal of time and effort into the bylaw updates

Selectman Grattan asked about guidelines for setbacks, and Mr. Keeley replied that setbacks will be specified in the regulations.

**Motion:** Selectman Patuto moved to support Article 23, Non-Zoning Wetlands Protection Bylaw Article XIV. Seconded by Selectman Runyan and approved. (4-0-1 with Selectman Hartling abstaining)

**Approval: Minutes, April 8, 2013, Special Session**

**Motion:** Selectman Patuto moved to approve the minutes of the Special Session of April 8, 2013 as submitted. Seconded by Selectman Runyan and approved. (5-0-0)

**Discussion:** Hunting Policy

This discussion was opened at the March 25, 2013 BOS meeting. T.A. Petrin explained that at present the General Law does not allow hunting unless approved by caretakers of a certain property. In November 2012 the BOS started proceedings to consider a hunting policy for town property. A public hearing was held, headed by subcommittee liaison Selectman Grattan. Selectman Hartling commented that he would not be comfortable moving forward with a vote until he views the public hearing and further studies the draft policy. The BOS agreed to postpone discussion and vote.
**Motion:** Selectman Patuto moved to postpone discussion on a hunting policy in order to give Selectman Hartling time to view the hearing and to study the policy. Seconded by Selectman Runyan.

*Discussion:* T.A. Petrin was asked if it is illegal to hunt on town property if the BOS does nothing and he said it was illegal, and he would direct the appropriate staff that the discussion has been postponed. Selectman Hogan recommended that when it is next on the agenda that it be for discussion and a vote.

**The motion to postpone passed.** (5-0-0)

### 114 Subcommittee Reports

**Selectman Patuto**

Selectman Patuto stated that discussions are once again being held about elimination of bus routes and stated that further cuts appear eminent in this and other communities.

**Selectman Runyan**

Planning Board Members Paul Raymond and Jack Kelly were congratulated on being nominated Chair and Vice-chair, respectively.

The Board of Health will be holding Household Hazardous Waste Day on April 27 at the Francis Wyman School.

The yard waste collection program is in place and the DPW will begin the annual flushing to cleanse fire hydrants.

### 115 Town Administrator's Report

T.A. Petrin thanked the Rapid Response members of Burlington's Police Department who were involved with the Boston Marathon incident. They will be invited to a future BOS meeting. The Town employees participated in today's moment of silence to reflect and show condolence and support to those affected by this event.

Members of Burlington's law enforcement participate with regional teams on call outs through NEMLEC, and T.A. Petrin said that Burlington is to be commended for passing their recent review. He thanked Chief Kent for his leadership.

Lieutenant Glen Mills has announced that the Burlington Police Department will hold a free Rape Aggression Defense (RAD) Self-Defense Class in May and June. The BOS were reminded to review NSTAR's Vegetation Management Plan in order to make comments on the plan.
Fire Chief Yetman and Assistant Fire Chief Mike Patterson recently went to inspect Engine 1 which is being disassembled, and it is reported that repairs should be completed by the end of June and the new engine will also be ready in June.

**Adjourn**

**Motion:** Selectman Patuto moved to adjourn at 9:10 p.m. Seconded by Selectman Grattan and approved. (5-0-0)

Respectfully submitted,

Betty McDonough
Recording Clerk
101 Burlington High School Boys Hockey Team Division 1 State Boys Hockey Title
   Certificates of Commendation

102 Public Hearing: All Alcohol License/Transfer of License Millican-Mackenzie Post 273 of
   the American Legion to Besito Restaurant, 75 Middlesex Turnpike/Burlington Mall
   Request for authorization letter from Riemer & Braunstein for applicant, Legal Notice for public
   hearing, Application for Retail Alcoholic Beverage License, rant for State Election for signatures,
   Corp ownership structure, Besito Restaurants Holdings Members Unanimous Consent, floor
   plan, Petition for Transfer of Ownership of License, manager application, Schedule 4A,
   (Manager's Interest in Other Licenses), driver's license of John Tunney, staff memo and
   responses: Police, Fire, BOH, Building, Planning

103 Public Hearing: All Alcohol License/Transfer of License Millican-Mackenzie Post 273 of
   the American Legion, 162 Winn Street
   Request for authorization letter from American Legion, Legal Notice for Public Hearing,
   Application for Retail Alcoholic Beverage License for Veterans' Group, Legion Secretary's
   Certificate confirming adoption of all directors, Exhibit A Legion Director's Unanimous Written
   Consent to Action Without Meeting, floor plan, Manager Application, certificate of birth-Kirk
   Post, TIPS Certificate of Completion-Kirk Post, staff memo and responses: Police, Fire, BOH,
   Building, Planning

104 Public Hearing: All Alcohol License/Transfer of License, The Ginger Pad to Bonefish Grill,
   75 Middlesex Turnpike, Burlington Mall
   Request for authorization letter from Demakis Law Offices for applicant, Legal Notice for Public
   Hearing, Petition for Transfer of Ownership, Petition for Change of License, Application for
   Retail Alcoholic Beverage License, Affidavit of proposed manager of record, Erik Bush,
   Manager Application, certificate of birth-Erik Bush, exterior plans (3), interior plans (2), staff
   memo and responses: Police, Fire, BOH, Building, Planning

105 Approval: Refinance, 121 South Bedford Street
   Authorization/approval for loan from Sovereign Bank, Deed Rider, Mortgage as recorded at
   Registry of Deeds, Mass Housing Account Statement for applicant, MassAdvantage 100
   Down payment Assistant Mortgage as registered at the Registry of Deeds with appraisal report and
   floor plan and photos and appraiser's identification, new loan documents from Sovereign Bank

106 Approval: 4th Annual Garden Club Plant Sale
   Request for authorization from Garden Club

107 Approval: The Bark Relay for Life
   Request for authorization from Relay for Life Chairperson

108 Approval: Street Opening, 11 Birchcrest Street
   DPW's approval with conditions

109 Approval: Street Opening, Sumpter Road
   DPW's approval with conditions

110 Approval: Alcohol Free Weekend
   Request for authorization from Burlington Drug & Alcohol Task Force

--- Approval: Burlington Interfaith Gathering at Town Common
Vote: Warrant Review
  o Warrant for May 13, 2013 Town Meeting
  o Conservation: Proposed Revision to Burlington General Bylaws

Approval: Minutes, April 8, 2013, Special Session

Discussion: Hunting Policy
  (Policy was provided to BOS at their March 25, 2013 meeting)

Subcommittee Reports
  Subcommittee Assignments 4/2013

Town Administrator's Report

Assistant Town Administrator's Report

Chairman's Report

Old/New Business
  Citizen's Time

TND #1