

## **MEETING MINUTES** **FOR AUGUST 6, 2012**

A Regular Meeting of the Board of Selectmen was held on Monday, August 6, 2012 in the Conway Hearing Room at 7:00 PM. Present were Selectman Andrew Deslaurier, Chairman, Selectman Michael Rosa, Vice Chairman, Selectman David Gagliardi, Secretary, Selectman Robert Correnti, Member, Selectman Robert Accomando, Member, Town Manager John Curran and Assistant Town Manager Cathleen O'Dea.

### **MOMENT OF SILENCE**

A Moment of Silence was given for all the victims of the shootings in Colorado and Wisconsin and for the tragic death of a Deputy Sheriff in Billerica.

### **CALL TO ORDER**

### **OPEN MICROPHONE**

Mr. Justin Damon from 17 Harnden Road came to the podium and spoke regarding the NDRP (National Defense Regional Preparedness) Executive Order that was signed by President Obama.

### **ANNOUNCEMENTS**

### **VACANCIES ON BOARDS AND COMMITTEES**

Secretary David Gagliardi stated the Board of Selectmen are accepting applications for the following positions:

#### **POSITION**

#### **# MEMBERS**

#### **Selectmen Appointments**

Arts Council	1
Cable Advisory Committee	3
Cabot Land Reuse Committee	3
Commission on Disability	2
Elderly and Disabled Taxation Fund Committee	1

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Financial & Compliance Audit Committee	2
Historic Districts Commission	7 alt.
Open Space & Recreation Committee	1
Scholarship Foundation Committee	2

Please note that the above positions are not paid positions. Applicants should have some knowledge of Municipal Government. Brief job descriptions are available at the Selectmen's Office. Applications must be sent to the Board of Selectmen, Town Hall, 365 Boston Road, Billerica.

**COUNCIL ON AGING ACTIVITIES**

Secretary David Gagliardi stated the Billerica Senior Center is located at 25 Concord Road and their hours are 8:30 AM until 4:00 PM, Monday thru Friday. They have many activities and programs scheduled and for more information on these activities call 978-671-0916 or go to their website [www.billericacoa.org](http://www.billericacoa.org).

**ANNUAL LIBRARY ICE CREAM SOCIAL**

Secretary David Gagliardi stated the Annual Library Ice Cream Social is being held tomorrow evening, August 7<sup>th</sup> at 6:30 PM.

**NATIONAL NIGHT OUT ON BILLERICA COMMON**

Secretary David Gagliardi stated in conjunction with the Annual Library Ice Cream Social, the Billerica Police Department will be hosting a National Night Out on Billerica Common. Please join us and see the Billerica Emergency Vehicles, K-Nine Demonstrations, the NEMLEC Command Vehicle, the Middlesex Sheriff's Department BARE Vehicle and Military Vehicles.

**MERRIMACK VALLEY LEAD PAINT REMOVAL PROGRAM**

Secretary David Gagliardi stated the Merrimack Valley Housing Partnership is sponsoring the Merrimack Valley Lead Paint Removal Program. Funds are available for Lead Paint Removal in Billerica. You can receive financial and technical assistance for removing lead paint. Both owner-occupied and investor properties are eligible. Single family homes may receive up to \$20,000 per unit. Multi-family homes may receive up to \$16,000 per unit. All projects will result in a letter of Full De-leading Compliance. This grant is geared towards low-income families with children under six years of age. You do not need to pay back any grant funds. For more information call Ryan DeMoura at 978-446-7200, extension 1440 or visit [www.Lowellma.gov/lead](http://www.Lowellma.gov/lead) for guidelines.

### **TOWN OF BILLERICA MERCURY RECOVERY PROGRAM**

Secretary David Gagliardi stated residents and contractors can bring mercury thermostats to the Town Hall, Board of Health, Room G03, Monday through Friday, from 9:00 AM until 3:00 PM. This is a program sponsored by Wheelabrator of North Andover.

### **DPW WATER CONSERVATION REBATE PROGRAM**

Secretary David Gagliardi stated the Town of Billerica has a Rebate Program for the replacement of toilets, urinals and clothes washers with water conserving features. The "Water Conservation Fund" was established to mitigate the demands on the Town water supply and allows the DPW to offer these rebates. To qualify for the rebate, Billerica water customers must be in good standing and own the property where the fixtures will be changed out. Tenants may participate with written permission from the property owner. Toilets, urinals and clothes washers must be specific models to qualify for the rebate. Go to [www.billericadpw.org](http://www.billericadpw.org) or contact the DPW Director's Office for a list of qualifying models. Qualifying toilet rebates are \$100. Qualifying urinal rebates are \$25. Qualifying clothes washer rebates are \$225. All rebates will be applied as a credit on your water bill. Rebate applications can be picked up at the DPW Director's Office at Town Hall or at the Water Treatment Facility located at 270 Treble Cove Road. Applications must be submitted to the DPW Office within 90 days of purchase.

### **STAGE II MANDATORY WATER CONSERVATION RESTRICTION**

Secretary David Gagliardi stated a Stage II Mandatory Water Conservation Restriction is in effect now through October 1<sup>st</sup>, 2012. Odd numbered addresses may water on odd numbered calendar days and even numbered addresses may water on even numbered calendar days. All may water on the 31<sup>st</sup> day of August. Residents and businesses are encouraged to support this water conservation effort. If you have any questions, please call 978-671-0957.

### **SUNSHINE GALS KITCHEN – MEALS PREPARED AND SERVED FOR NEEDY FAMILIES LIVING IN BILLERICA**

Secretary David Gagliardi stated the Sunshine Gals Kitchen prepares and serves meals on the fourth Saturday of each month between 12:00 Noon and 1:30 PM for needy families living in Billerica. This luncheon is homemade and prepared and served at the First Parish Church located in Billerica Center. If you have any questions, please call Jo Leary at 978-270-4509 or go to [sunshinegals@yahoo.com](mailto:sunshinegals@yahoo.com).

**BILLERICA RECREATION DEPARTMENT, RE: SUMMER  
CONCERT SERIES**

Secretary David Gagliardi stated the Billerica Recreation Department has had an on-going series of Concerts on the Common. These concerts are scheduled for Tuesday evenings from 6:30 PM to 9:00 PM. In the event of rain, the concert will be cancelled. They will try to reschedule if the band is available. They invite individuals and families living and/or working in Billerica to enjoy an evening of fun and music. These concerts are free to the public.

August 7 <sup>th</sup>	John Penny Band
August 14 <sup>th</sup>	Four Guys in Tuxes
August 21 <sup>st</sup>	The Full Turn Band

**FALL 2012 TOWN MEETING WARRANT**

Secretary David Gagliardi stated the Fall 2012 Town Meeting Warrant closes on August 13<sup>th</sup>, 2012 at 4:00 PM.

**PRECINCT ONE VOTING LOCATION**

Secretary David Gagliardi stated we received a memorandum from Town Clerk Shirley Schult stating to all voters in Precinct One, this is to officially notify you that your voting location has been changed for the September 6<sup>th</sup>, 2012 State Primary. Due to the construction of the New Parker School and the demolition of the Old Parker School, you will vote in the Maurice A. Buck Memorial Auditorium at the Town Hall located at 365 Boston Road. The Auditorium is located on the main floor and there is a handicapped entrance on the North side of the building with an elevator. We anticipate that Precinct One voting location will be at the New Parker School on River Street for the Presidential Election on November 6, 2012. You will be sent another notification in October as to where you will be voting. If you have any questions, do not hesitate to contact the Town Clerk's Office at 978-671-0924.

**THANKS FOR JULY 4<sup>Th</sup> FESTIVITIES**

Selectman Robert Correnti stated on behalf of this Board I would like to thank the Billerica Lions Club, the Emblem Club, the Rotary and the COA for everything they did to make the Town's July 4<sup>th</sup> festivities such a success.

## **PRESENTATION**

### **BILLERICA COMMUNITY ALLIANCE**

Mrs. Doris Pearson, President of the Billerica Community Alliance, came to the podium and introduced Ms. Caroline Catlander, the new Executive Director for the Billerica Community Alliance.

Ms. Caroline Catlander came to the podium and introduced herself and gave a presentation of her vision for the Billerica Community Alliance.

## **MINUTES**

### **MAY 21, 2012 (REGULAR SESSION)**

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to accept the May 21, 2012 Regular Session Meeting Minutes as submitted.

It was voted:           5 – In Favor  
                                  0 – Opposed

### **JUNE 4, 2012 (REGULAR SESSION)**

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to accept the June 4, 2012 Regular Session Meeting Minutes as submitted.

It was voted:           5 – In Favor  
                                  0 – Opposed

### **JUNE 11, 2012 (REGULAR SESSION)**

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to accept the June 11, 2012 Regular Session Meeting Minutes as submitted.

It was voted:           5 – In Favor  
                                  0 – Opposed

## **OLD BUSINESS**

### **TOWN MANAGER REPORTS**

#### **PARKER SCHOOL**

Town Manager John Curran stated the new school is nearing substantial completion. A punch list has been compiled. There is still some mill work that needs to take place on the first floor before I will sign off on substantial completion. Some roof work will be excluded from substantial completion if it is not complete by next week. The school is still expected to finish and open on time. Commissioning of the building is ongoing. Phase 2 has started. This area has been secured by a chain link fence. The demolition of the old school will take place next week and will take approximately a week and a half. It is expected to be down and removed before school starts. All utilities from the old school have been disconnected. The water and sewer connections for the new school will be finished on Monday. A shut off notice has been sent out to this area through the Code Red program.

#### **TOWN CENTER**

Town Manager John Curran stated the Historic District Commission has deemed this project a significant project and set it up for a Public Hearing on August 16<sup>th</sup>, 2012 at 7:30 PM in Conference Room 210 of the Town Hall. An advertisement has been placed and abutters will be notified. I will be attending this Public Hearing with Town Engineer Kelley Conway, DPW Director Abdul Alkhatib and the Beta Group. The goal is to get approval for all the necessary elements in the 20 percent design plan. It is expected that we would come back later for things that are not included yet, such as signage. I have outlined this proposal on the Bernie Hoar Show. It will be airing in August and September. I am also making a presentation to the Council on Aging on August 8<sup>th</sup> at 9:30 AM. I met with Victoria Maguire, the State Permitting Ombudsman from the EOHED. She heads up the Mass Works Grant Program. Abdul Alkhatib and Kelley Conway and two engineers from the BETA Group attended as well. We presented our plan to her and our intention to apply for Mass Works money. We could receive between \$1.5 and \$3.0 million. After attending this meeting, I believe the Town has a good chance of receiving funding through this program. Additionally, a meeting is scheduled with Patricia Leavenworth, District Four Director of Mass DOT for August 14<sup>th</sup> in the Arlington Office. I will be presenting the same project to them with the hope of reinvigorating the Traffic Signal Project in front of the Billerica

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Mall. The intent is for the Town to take over the project and have Mass DOT fund it. The hope is that they would also pickup the cost of the road work on the State portion of the roadway up to O'Connor's Hardware Plaza. It is the goal to take a lesser amount to Town Meeting for bond authorization; approximately \$10 million. The remainder of the project would be funded with alternative State funding sources.

Selectman Michael Rosa stated I believe that \$14.5 million dollars of the New Town Center Plan is to put utilities underground. I think you had a preliminary conversation with National Grid about giving us a credit, because if we redid the Town Center, they would have to move the poles at their own expense, and if we put them underground they are trying to hit us for the full expense. My thought is that there is a value when they have to move them, for them to absorb the entire cost, so that should be deducted from the cost of putting them underground. Where does that stand?

Town Manager John Curran stated we did have our Engineers look at that. We have not specifically looked at which poles would have to be moved regardless of whether they went underground or not, with the rational that they would have to pay for those if we did not go underground. We will be looking for a credit for those poles. They were not at all receptive to working with the Town on funding that portion of it. Right now we are trying to get more accurate cost estimates to see if we can scale down the size of the dollar amount. The initial cost estimates are always higher because they are not based on the nitty gritty of what the actual design involves. Another interesting thing that we have learned along the way from the Town Manager of Chelmsford is that they have a similar project going in Chelmsford and they did it differently. They did it the way the Town of Billerica was looking at doing it a few years back, which was attaching it to the utility bills as a fee. What they have discovered is that if the utility does not raise enough money to pay for the project out of the gate, they stop the project. So using the fee system as a source of funding for a project like this carries great risk because you are at the whim of the utility company and they are not going to spend money until they receive it. So one of the reasons that we put the whole bond together, and the cost that we provided does include sinking the utilities, is to make sure that we do have control over the project and that we are not in that situation where we have to wait years for the utility to come up with that money through fees.

**NEW BUSINESS**

**BORROWING AUTHORIZATION (\$10 MILLION FOR PARKER SCHOOL, \$750,000 FOR HALLENBORG RINK RENOVATIONS AND \$1 MILLION FOR FIRE DEPARTMENT EQUIPMENT**

Town Manager John Curran stated tonight we are asking this Board of Selectmen to vote to approve the issuance of a Bond Anticipation Note (BAN) not-to-exceed \$11,750,000 for the following Municipal purposes:

	<u>Authorized/Article</u>	<u>Bond Anticipation Note</u>		
		<u>Amount</u>	<u>Dated</u>	<u>Due</u>
Parker School BAN Rollover	10/6/09 Article 3	10,000,000	8/10/12	5/17/13
Hallenborg Ice Rink New Borrowing	10/6/11 Article 16	750,000	8/10/12	5/17/13
Fire – 2 Trucks New Borrowing	5/19/11 Article 27	1,000,000	8/10/12	5/17/13
<b>GRAND TOTAL ALL BAN'S</b>		<b><u>11,750,000</u></b>		

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board vote to approve the issuance of a Bond Anticipation Note in the amount of \$11,750,000 dollars as presented.

It was voted:           5 – In Favor  
                               0 – Opposed

Secretary David Gagliardi read the following into the record:

I, the Clerk of the Board of Selectmen of the Town of Billerica, Massachusetts, certify that at a meeting of the Board held August 6, 2012, of which meeting all members of the Board were duly notified and at which a quorum was present, the following votes were unanimously passed, all of which appear upon the official record of the Board in my custody.



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Voted: That we hereby determine, in accordance with M.G.L. c.70B, that the amount of the cost of the Parker Elementary School project authorized by a vote of the Town passed on October 8, 2009 (Article 3) and November 21, 2009 not being paid by the School Facilities Grant is \$17,761,561 and we hereby approve of the issuance of notes and bonds in such amount under said M.G.L. c.70B.

Further Voted: To approve the sale of a \$11,750,000 1.00 percent General Obligation Bond Anticipation Note (the "Notes") of the Town dated August 10, 2012 and payable May 17, 2013 to Jefferies & Co. at par plus a premium of \$70,619.

Selectman Michael Rosa seconded this motion.

It was voted:           5 – In Favor  
                              0 – Opposed

**BOARDS APPOINTMENT TO LRTA**

Selectman Robert Correnti stated I did request this be placed on our Agenda after a discussion this past June with the Chairman. As Board members know, we have a number of Board appointments that are made annually. These appointments involve Board Members to various Boards, Commissions and Committees. In two specific cases, appointments can be Board Members or designees of the Board. While these appointments have been traditionally delegated to the Chairman, the Board nonetheless has not delegated its authority for these appointments. For those appointments delegated to the Chairman, the Board's ratification of the Chairman's appointments can be assumed by its silence and lack of action. This year, prior to the announcement of any appointments by the Chairman, I inquired to the Chairman relative to the Board's appointment to the LRTA. Upon learning of the Chairman's letter to another applicant, informing that applicant of his appointment to the LRTA. I did email and speak with the Chairman. Reasonable folks can disagree and such was the essence of our conversation with Mr. Deslaurier. Mr. Deslaurier was firm in his decision relative to another applicant. I did, in that conversation, inform the Chairman that I would accordingly bring this matter to the full Board. Former Selectmen Arthur Doyle has been the Board's representative to the LRTA for some sixteen years. For the past several years, he has been the Chairman of the LRTA. Mr. Doyle did file a timely application seeking re-appointment as the Board's designee to the LRTA. On May 16<sup>th</sup>, our office received a letter dated May 14, 2012 from Mr. James H. Scanlan, Administrator of the LRTA, relative to Mr. Doyle's application. The letter read:

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Dear Chairman Deslaurier:

Please be advised that Arthur Doyle is an important and essential member of the LRTA Advisory Board. Mr. Doyle has represented the Town of Billerica for approximately sixteen years. During this time, Mr. Doyle has provided great service to the LRTA and has strongly advocated for the LRTA services to the Town of Billerica.

He was champion for a new Billerica Train Station in 1998 and more recently he has advocated and been successful in increasing the LRTA Bus and Para-Transit Service to the Town. Additionally, the LRTA, under contract with the Town's Council on Aging, has provided almost a total of \$55,000 of new senior transportation services to the Billerica Council on Aging over the past few years.

Mr. Doyle's dedication and leadership is recognized by his fellow LRTA members. To this end, he has been elected over the past several years as the Chairman of the LRTA Advisory Board.

I have been informed that Mr. Doyle would like to continue to represent the Town on the LRTA Advisory Board and I feel he would continue his strong advocacy for your Town.

Lastly, I cite from Policy 11.3 of the Board's Policies and Procedures – this policy being ratified on November 17, 2008:

- 11.3 The Selectmen shall annually appoint either a current Board member or its designee to the Lowell Regional Transit Authority and the Community Teamwork, Inc. Appointees shall apprise the Board of developments.

This policy concurs with Town Counsel's response and opinion to the Chairman dated 6/27/12 which was provided to us in our meeting package received this weekend. Hence, I ask the Board to re-appoint Mr. Arthur Doyle, to another one year appointment, as the Board's designee to the LRTA.

Selectman Robert Correnti, seconded by Selectman David Gagliardi, made a motion to reappoint Mr. Arthur Doyle to another one year appointment as the Board's designee to the LRTA.

Chairman Andrew Deslaurier stated none of the facts that Selectman Correnti read, and may I point out very eloquently, are in dispute. All those things took place, and I think that is one of the benefits of our new Board, that while sometimes we are vigorous in discussions, we are not disrespectful. I did choose a different appointee, Mr. Al Ramos,

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and as myself being a frequent user of what the LRTA offers, I realize that we are right now going through significant changes as to what public transportation offers into the fabric of our society, especially in Billerica. We are no longer the small town that we used to be. We have a 40,000 plus population and we are going through a transition as to where that will be a part of. Mr. Doyle's service has been admirable. I thought it might be time for a change or transition at this point. I will leave it up to the Board to select who they think is best. I just want to state again that Selectman Correnti's facts are not in dispute here.

Brief discussions ensued regarding application submittal deadlines and Mr. Doyle's tenure as the Board's designee to the LRTA.

It was voted: 3 – In Favor (Selectmen Correnti, Accomando & Gagliardi)  
2 – Opposed (Selectmen Deslaurier & Rosa)

**THE ROTARY CLUB OF BILLERICA'S YANKEE DOODLE 5K  
ROAD RACE ON SUNDAY, SEPTEMBER 16, 2012**

Secretary David Gagliardi stated the Billerica Rotary Club is requesting approval to host their Yankee Doodle 5K Road Race on Sunday, September 16<sup>th</sup> beginning at 9:00 AM.

Selectman Robert Correnti stated the purpose of this race is to raise funds for the Rotary Club and for local Veteran's causes. The route would begin and end at the Marshall School. Their goal is to have at least 500 runners attend this event. Traffic Safety Officer Martin Conway has reviewed this request and has informed us that all safety concerns and issues have been addressed and he recommends permission be granted for this event.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve the request by the Billerica Rotary Club to host a Yankee Doodle 5K Road Race on Sunday, September 16<sup>th</sup> beginning at 9:00 AM.

It was voted: 5 – In Favor  
0 – Opposed

**FIT FOR VETS INC. FUNDRAISER EVENT ON AUGUST 18, 2012**

Mr. Joseph Higgins, Assistant Recreation Director, came to the podium and introduced Ms. Megan Gagnon.

Ms. Megan Gagnon, Residential Brokerage President at Fit for Vets Inc. came to the podium and stated I am here tonight seeking your permission to hold a Fit for Vets Inc. Fundraiser Event on Saturday, August 18<sup>th</sup>, 2012 at the Lampson Field. We are looking for an Entertainment License and a One Day Beer and Wine License. We are a public

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Non-Profit Charity that was created to directly benefit and improve the lives of Veterans and their families by helping to meet their rapidly growing financial, physical, emotional and psychological needs. We have received approval from the Billerica Recreation Department, the Boys and Girls Club, Pop Warner and Fast Pitches Softball to use the Lampson Field. This event will consist of a fitness obstacle race, fitness activity stations such as crossfit, dodge ball, softball, potato sack races, three legged races, capture the flag and jazzercise. All of these events will be monitored and overseen by professional trainers and fitness athletes from local gyms. Military base personnel from the Navy, Air Force, Marines and Army will be attending, participating and volunteering at the event. General release waivers and liability forms will be signed and kept on file releasing any individual in the event, the Town, any property and our organization from any liability. The Billerica Fire Department and the Billerica Veteran's Office are in full support of this event.

Secretary David Gagliardi stated we received a memorandum from Police Safety Officer Martin Conway stating that he met with Megan Gagnon at the Lampson Field and went over all of his concerns, such as parking and pedestrian traffic, and she has assured him that these concerns have been addressed.

Selectman Robert Correnti stated under M.G.L. Chapter 138, Section 14, the local licensing board may issue a One Day Special License to a "responsible manager of any indoor or outdoor event" for wine and malt beverages only. Under the provisions of the Special License, no license may be issued for more than 30 days, either consecutively or in aggregate, within a calendar year. In addition, all beverages sold under the Special License must be purchased from a licensed dealer (under Section 18) and not a package store. The law also prohibits any of the beverages sold under this license from being donated. Ms. Gagnon is using a local distributor to provide beer at this event. She has also been instructed by the Billerica Police Department to limit the serving of beer to a maximum of three beers per customer. The Billerica Police Department has also informed us that Ms. Gagnon appears to be a responsible person and has no statutory restrictions preventing her from obtaining this license.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board grant a One Day Beer and Wine License to Megan Gagnon, d/b/a Fit for Vets Inc., P.O. Box 842 Billerica, MA for Saturday, August 18, 2012 from 10:00 AM until 6:00 PM and waive the fee.

It was voted:                   5 – In Favor  
  0 – Opposed

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Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board grant a One Day Entertainment License to Megan Gagnon, d/b/a Fit for Vets Inc., P.O. Box 842 Billerica, MA for Saturday, August 18, 2012 from 10:00 AM until 6:00 PM and waive the fee.

It was voted:           5 – In Favor  
                              0 – Opposed

**LIFE CARE REQUEST FOR ALZHEIMER’S WALK ON  
SEPTEMBER 22, 2012**

Secretary David Gagliardi stated this Board has received a request from the Life Care Center of Merrimack Valley located at 80 Boston Road for permission to hold an Alzheimer’s Walk on September 22, 2012.

Ms. Jo-Anne Cimon came to the podium and stated this walk would begin at the Life Care Center and end at Kelly’s High Octane Harley Davidson with a cookout. Registration would be from 8:00 AM until 9:30 AM and the walk would depart the Life Care Center at 10:00 AM. This walk is to raise money for the Alzheimer Association.

Chairman Andrew Deslaurier stated Traffic Safety Officer Martin Conway has reviewed this request and has informed us that all safety concerns and issues have been addressed and he recommends permission be granted for this event.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve the request of the Life Care Center of Merrimack Valley located at 80 Boston Road permission to hold an Alzheimer’s Walk on Saturday, September 22, 2012.

It was voted:           5 – In Favor  
                              0 – Opposed

**SWEET LIBERTY INC., D/B/A SWEET LIBERTY, 420 BOSTON  
ROAD, RE: COMMON VICTUALLER LICENSE**

Secretary David Gagliardi stated Sweet Liberty Inc., d/b/a Sweet Liberty, which is located at 420 Boston Road, is seeking a Common Victualler License. Their hours of operation are Monday thru Wednesday, 10:00 AM until 10:00 PM, Thursday thru Saturday, 10:00 AM until 11:00 PM and Sunday, 10:00 AM until 9:00 PM.

Mr. Manolis Lantzakis, Manager of Sweet Liberty, came to the podium and stated I sell self-serve frozen yogurt and ice cream and I am seeking a Common Victualler License.

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Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board grant a Common Victualler License to Sweet Liberty Inc., d/b/a Sweet Liberty, which is located at 420 Boston Road. Their hours of operation are Monday thru Wednesday, 10:00 AM until 10:00 PM, Thursday thru Saturday, 10:00 AM until 11:00 PM and Sunday, 10:00 AM until 9:00 PM and this includes all the Zoning Board of Appeals Special Conditions.

It was voted:           5 – In Favor  
                              0 – Opposed

**DAV, BILLERICA CHAPTER 47, RE: FORGET-ME-NOT DRIVE  
ON SEPTEMBER 21 AND 22, 2012**

Secretary David Gagliardi stated the Billerica DAV, Chapter 47, is requesting permission to conduct a Forget-Me-Not Drive on Friday and Saturday, September 21<sup>st</sup> and 22<sup>nd</sup>, 2012 at O'Connor's Hardware and the three Market Basket supermarkets in Billerica.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve the request of Billerica DAV, Chapter 47, to conduct a Forget-Me-Not Drive on Friday and Saturday, September 21<sup>st</sup> and 22<sup>nd</sup>, 2012 at O'Connor's Hardware and the three Market Basket supermarkets in Billerica.

It was voted:           5 – In Favor  
                              0 – Opposed

**HOME EQUITY LOAN FOR A 40B UNIT AT 159 ALLEN ROAD AT  
NICHOLAS COMMONS**

Secretary David Gagliardi stated this Board has received correspondence from Mary Alice Foley of 159 Allen Road, Unit 46 in Nicholas Commons. This is an Affordable Housing Unit and she is requesting permission to proceed with applying for a Home Equity Loan in the amount of \$10,000 with Enterprise Bank and Trust due to a one-time condominium increase relative to a sprinkler system problem. There is a Deed Restriction that requires approval from this Board of Selectmen as well as an approval from the Department of Housing and Community Development.

Ms. Mary Alice Foley came to the podium and stated recently I applied for a Home Equity Loan through Enterprise Bank and in my deed there is a clause that I have to get approval from the Board of Selectmen.

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Town Manager John Curran stated this is pretty common. There is almost like a lien on the property by the Town because of its 40B status. The Town has an interest in the property because of its 40B component. I would recommend that the Board approve this request. This does not affect the affordable status of the unit.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve the request of Mary Alice Foley of 159 Allen Road, Unit 46 in Nicholas Commons to apply for a Home Equity Loan in the amount of \$10,000 with Enterprise Bank and Trust.

It was voted:               5 – In Favor  
                                  0 – Opposed

**BILLERICA MOOSE LODGE 2684, RE: ONE DAY ENTERTAINMENT LICENSE FOR AUGUST 11, 2012, AUGUST 18<sup>TH</sup>, 2012 AND AUGUST 25, 2012 FROM NOON TO 6:00 PM FOR A DISC JOCKEY**

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve the request of Billerica Moose Lodge 2684 located at 114 Boston Road for One Day Entertainment Licenses for August 11, 2012 from Noon to 6:00 PM.

It was voted:               5 – In Favor  
                                  0 – Opposed

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve the request of Billerica Moose Lodge 2684 located at 114 Boston Road for One Day Entertainment Licenses for August 18, 2012 from Noon to 6:00 PM.

It was voted:               5 – In Favor  
                                  0 – Opposed

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve the request of Billerica Moose Lodge 2684 located at 114 Boston Road for One Day Entertainment Licenses for August 25, 2012 from Noon to 6:00 PM.

It was voted:               5 – In Favor  
                                  0 – Opposed

## **OLD BUSINESS**

### **YANKEE DOODLE BIKE PATH**

Secretary David Gagliardi stated in the eight weeks since this Board made the decision to halt the work of the Bike Path Committee, there has been a great deal written in the press, as well as several letters to the editor regarding that decision. I wanted to take a few moments to publicly clarify the Board's position, as well as my own. I wish to make it clear that the Board never dissolved the committee. It voted only to stop work on the Bike Path issue until the Town was three to five years away from funding the project. The Town Manager clearly stated that funding the Bike Path through the TIP Program would not occur until 2020 at the earliest and funding through the Capital Plan would not occur for at least eight to ten years. Based on those facts, the Board, in a four to one vote, decided to stop work because any information gathered now with regard to the Bike Path would be old and need to be redone when we were finally at the point of funding. As for myself, I wish to make it crystal clear that I am not now nor have I ever been opposed to a Bike Path, despite what has been written by certain individuals. It was I who made the motion to create the committee and I who has served on it. During my time on the committee I have personally met with representatives from Pan Am Railways and Cabot Corporation in an attempt to obtain the necessary easements. I also arranged, through the Engineering Office, to meet with a representative from VHB to get the most up-to-date estimate on the cost of the project and to discuss the challenges of routing the path through wetlands, all without incurring any cost to the Town. This statement is not meant to take anything away from the efforts of the other members, but to illustrate my commitment to the charge the committee was given. In the past eight weeks since the Board voted to stop work on the Bike Path, the Chairman of the Bike Path Committee, Mr. Piscatelli, has heard from a small but vocal group of people who would like the Bike Path done sooner rather than later. We already know that this will not happen within the Town's present revenue stream. I have given this issue a great deal of thought and may have come up with a solution to satisfy all parties concerned. Since the subject of the Bike Path first came up last fall, both Representative Lombardo and his aide Mr. Hurd have said on several occasions that there is "money out there" to fund the construction of Bike Paths. I believe that this is one area the Bike Path Committee can and should explore. Therefore Mr. Chairman, I plan to make the following three motions. The first will be to rescind the action taken by the Board on June 4, 2012 regarding the Bike Path Committee. The second will be to continue the Committee's work with a new charge. That new charge will be to work with the State Representative's Office to identify and obtain all construction money available for Bike Path's outside the Town's revenue stream. The third will be to rescind the action taken by the Board on June 4, 2012 and delay the Committee's presentation to Town Meeting until this new assignment is complete.



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Selectman Robert Correnti stated over the past several weeks, much has been said about the Bike Path. Even while there have been misrepresentations and inaccurate statements, I have chosen to not participate in a public debate that, I believe, is harming the project. However, I would now like to take this opportunity to set the record straight. On July 19<sup>th</sup>, 2011 I had a breakfast meeting, at his request, with our State Representative. He had requested a letter from me regarding support for a Bike Path. We met and I provided him with a letter of support, as requested.

Dear Representative Lombardo:

I am writing to provide further comments in connection with our discussion concerning a Bike Path in Billerica.

Having been a member of the Billerica Bike Path Committee during your term as Selectman in Billerica, you know this has been an initiative for at least the past decade. Unfortunately, for whatever reasons, the Bike Path has not gained much traction during that time.

This certainly is a project that could help alleviate traffic congestion, encourage walking and bicycling, improve air quality and reduce energy consumption. Truly, the Bike Path could provide a positive impact on the quality of life and character of Billerica.

Although the design, specific routes, rights-of-way and costs have not as yet been identified and/or finalized, it possibly could link with the Minuteman Bike Path, creating an extensive regional trail network. The Bike Path initiative deserves to be re-energized and must include community input and neighborhood meetings, particularly where the Bike Path would be situated. Lastly, project costs and ongoing costs (such as public safety and maintenance) need to be developed. Project costs must detail Mass DOT TIP participation so Billerica can evaluate the project's affordability during these constraining fiscal times.

While the scope of this project may appear daunting, it deserves investigation and discussion. All stakeholders at the Town Level need to be fully involved. Thus, we support continued efforts as regards the Bike Path so a fully informed decision can be made at the Town level on the project and fiscal viability of the Bike Path. However, if it is clear that the state will not allow this project on the TIP, I would recommend we do not dedicate any more of the Town's resources at this time.

Selectman David Gagliardi has been appointed as the Board's representative on the Bike Path Committee. I would request you including Selectman Gagliardi in future discussions of the Bike Path.

We appreciate your assistance with the Bike Path initiative.

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Selectman Robert Correnti further stated I have never been “opposed to the Bike Path since day one” as has been written. As a matter of fact, three months after I joined the Board in 1999, I was sending information on a possible funding source to the Board’s Bike Path representative. In August of 2000 I joined with others in support of Rail Trail Development. In 2001, I again provided information regarding bike routes to the Board’s Representative. As recently as November of 2011, the Board, with me as Chairman, signed a letter of support for the Bike Path Project within the State and Federally funded Transportation Improvement Program (TIP). As Vice Chair of NMCOG, I have been involved with the Northern Middlesex Regional Transportation Plan for 2012 to 2035. The Bike Path is included in this Plan. So, while some don’t let the facts get in the way of their agenda, the record is clear regarding my support for the Bike Path. Comments stating otherwise are simply false. At that breakfast meeting, I noted to Mr. Lombardo that during his tenure on the Board, as the Board’s Representative for the Bike Path Committee, nothing was brought forward regarding the Bike Path. Apparently there were never any publicly held meetings. I asked why the sudden urgent emphasis now on a Bike Path. Representative Lombardo responded “Everyone needs to have a legacy” and he wanted this to be his. I made it clear I did not share the view that we need to dig into Billerica taxpayer’s wallets to build someone’s desire for a legacy. On September 9<sup>th</sup>, 2011 I had a breakfast meeting with Representative Lombardo’s Legislative Aide Ed Hurd. Mr. Hurd had requested the meeting to discuss important issues. Mr. Hurd’s first issue was to once again rehash possible savings with the GIC and wanting to make me aware of those savings. He also focused upon the savings that could be realized by increasing the contribution rate for current Billerica retirees. He urged that current retirees pay more, something along the lines of 75/25. I noted the Town Manager was quite involved with potential health insurance savings. At that point, we were awaiting the new health insurance regulations and were working to achieve cost savings, but those savings would not be realized on the backs of retirees. The other issue was the Bike Path. I reviewed my letter with Mr. Hurd. I noted that we all must work together on issues and initiatives such as this. During our discussion, I indicated we should not be spending money without having the rights-of-way for a Bike Path and that this was the same issue years ago. I noted Cabot Corporation, as an example, in which an easement was not agreed to by Cabot. Mr. Hurd strongly disagreed and insisted Cabot had indeed approved an easement years ago. Frankly, he recommended I contact former Selectman Ellen Rawlings for verification. He stated he would bring a VP from Cabot to Town Meeting to state they had previously approved and would grant the easement. Rather than go back and forth, I stressed that we needed to re-energize the Bike Path Committee; that the committee identify a route and then seek approval of the rights-of-way for that route. I also urged him, as I previously urged Representative Lombardo, to work with Selectman Gagliardi. Working together to identify a route and obtain the needed rights-of-way would be the first step before asking for design funding. Lastly, funding for the Bike Path itself needed to be from State and/or Federal sources, similar to other communities which built Bike Paths. As I have stated to Mr. Lombardo and Mr. Hurd, I support the Bike Path. It is a great project. However, an important and complex project such as this needs to be an inclusive, collaborative effort. The presentation, made by the Chairman of

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the Bike Path Committee to the Board on June 4, 2012, provided two options. It is important to note that neither option disbanded the Committee, as some have stated recently. Option One was supported by a 4 to 1 vote of this Board. Mr. Deslaurier being the one vote in the minority. Option One was to continue the current TIP priorities (Allen Road and Middlesex Turnpike) and not self fund the Bike Path. The Recommendation stated: Discontinue all work on the bike path and revisit in 3 to 5 years. Option Two (not chosen) was to fund the bike path, in the town's capital plan, in 2 to 3 years. Thus Option Two was to fund this within the Town's budget. It is important to note, since my meeting with Mr. Hurd, that we have received correspondence from Cabot, dated May 8, 2012, declining to provide an easement (contrary to his assertions). All the discussion/and or rancor, as Mr. Gagliardi has noted, has hurt this project. Rather than work together, within the process and with sound responsible fiscal planning, the project potential for success has been placed in jeopardy. The political rhetoric does nothing to move this project forward. During Selectman Rawlings' tenure, much was done regarding the Bike Path. I commend Selectman Gagliardi for his leadership re-energizing this project. Funding and rights-of-way issues remain. Within our Regional Transportation Plan, estimates for the Bike Path range from \$5,680,000 to \$6,400,000 – as consideration and costs are now considered for crossing wetlands. I do not support displacing other projects on the TIP for the Bike Path. The Bike Path Committee has identified rights-of-way issues. If another source of funding, other than through the TIP, was available on the immediate horizon, I would support the expenditure of resources to secure the rights-of-way and for a design at that point.

Selectman Michael Rosa stated as Selectman Correnti pointed out, it was a 4 to 1 vote. The only reason that I voted for Option One was because I was not willing to re-prioritize, as it was said, the Bike Path ahead of the two projects that have been long standing and waiting. However, I did sit here for 15 minutes and try to convince the Board of not doing Option One or Two, but to keep the Bike Path active and although it was not dissolved, everyone is correct in that it was to discontinue all work on the Bike Path and revisit it in three to five years. I argued against that because I thought we could keep working towards acquiring land. We talked about getting an estimate for the Pan Am property and possibly securing that through money in the Land Bank. I talked about continuing discussions with Cabot. At the end of the day the Board picked Option One, to dissolve the Bike Path Committee. I think now what I am hearing is that you want to restart the Committee and essentially do what I essentially sat here and argued for 15 minutes what we should of done eight weeks ago, which is to keep it active, to keep looking for money, to keep looking for grants as they become available to obtain the land and now, only because of all the public pressure, which honestly I don't care where it came about, I think that is the right way to do it, I am going to support reinstating the Bike Path Committee. We should have never taken the vote in the first place, but now we have an opportunity to rectify that. As far as your third motion, which is not to report to Town Meeting, wouldn't it make sense, at the very least, to go to Town Meeting and give them the information that the Bike Path Committee has come up with to date. Obviously it looks like we are going to vote to rescind our former vote and put the Bike

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Path Committee back in action again, but there still is a lot of information in this package that I think Town Meeting would be interested in knowing.

Secretary David Gagliardi stated my idea was to give Town Meeting one complete presentation, including whatever they find out about funding. Also, truthfully, unless someone has been living in a hole for the last eight weeks, I think everyone knows about the Bike Path.

Selectman Michael Rosa stated it should be a matter of record at Town Meeting. It was brought up as a Warrant Article to try to fund the plan for \$120,000. This committee was set up by this Board. I don't think it would hurt to update Town Meeting. It is my understanding that Rep. Lombardo put a \$150,000 in a Transportation Bond Bill, which has passed the House and the Senate and is sitting on the Governor's desk to be signed. This would be the money we would need to do that first phase or preliminary plans.

Selectman David Gagliardi stated the Warrant Article was for 25 percent design and we already found out through VHB that for 25 percent design the cost for that alone would be between 8 and 12 percent of the total cost of the project. So if you took 10 percent, the mid-point, and you say \$4,000,000, the cost would be \$400,000 just to do the 25 percent design. Thus the \$120,000 would have been woefully inadequate. Even the \$150,000 that we may or may not get through the Transportation Bond Bill would not cover very much.

Selectman Robert Accomando stated I would like to thank Selectman Gagliardi for bringing this forward. I have never seen such mischaracterization of what a Board did. From letters to various newspapers, my wife was one of the original people from the original Bike Path. Never once did anyone on this Board mention disbanding this committee. Never once did anyone on the Board mention doing away with the Bike Path Committee. I think that this Board, all five of us, were victimized by those letters. It simply was not true. Where I come from, we have a statement, that some people never let the truth get in the way of a good story. The people who wrote those letters did not care what the truth was. They wrote exactly what they wanted to write, characterizing us. I would like to see the retractions as big as those letters because never once did anyone on this Board disband that committee.

Chairman Andrew Deslaurier stated I just want a Bike Path. I think it is unrealistic that we will find free money kicking around Beacon Hill or anywhere else. I think there is merit in what Selectman Correnti stated as a partnership somewhere in between. I have always supported the Bike Path. I was the lone vote last time. I will support this because I do want the Bike Path, but I think it will be something that probably happens in about 10 to 15 years down the road. I do believe that the Town will have to invest some money, as we do with most infrastructure projects.

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Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board rescind the vote of June 4, 2012 regarding the disposition of the Bike Path Committee.

It was voted:           5 – In Favor  
                              0 – Opposed

Selectman David Gagliardi, seconded by Selectman Robert Correnti, made a motion that the Bike Path Committee be restarted and charged with working with the State Representative's Office to solely identify and obtain any and all funds available for the construction of Bike Paths outside the Town's current revenue stream, which would include the TIP and Town borrowing and report their progress to the Board on a bi-monthly basis.

It was voted:           5 – In Favor  
                              0 – Opposed

Selectman David Gagliardi, seconded by Selectman Robert Correnti, made a motion that the Board rescind the vote taken by the Board on June 4, 2012 to present to Town Meeting the Bike Path Committee's Report until their present assignment is complete.

It was voted:           4 – In Favor  
                              1 – Opposed (Selectman Rosa)

**NEW BUSINESS**

**BOARD OF SELECTMEN APPOINTMENTS**

**CHAIRMAN'S APPOINTMENTS**

**STANDING COMMITTEES** (July 1, 2012 to June 30, 2013)

Cable Advisory Committee	RMC, AND
Community Funds	All
Kent Fund Scholarship	RMC, DAG
Lowell Regional Transit Authority (LRTA)	ALD
Northern Middlesex Council of Government (NMCOG)	RMC
Open Space and Recreation	AND
Public Safety Memorial Study Committee	RMC, MSR
Senior Citizens' Advisory/COA	DAG, MSR
Town/School Fiscal Subcommittee	DAG, MSR
Traffic Management Committee	RMC
Water Conservation Oversight Committee	RBA

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**TOWN MEETING**

Created Committees  
(Three Year Terms)

Billerica Housing Partnership Committee (Art.28, ASTM 2000)	MSR, AND
Cabot Property Re-Use Study Committee	DAG
Long Range Master Plan Oversight Committee	AND
Parker School Building Committee	RBA
Street Acceptance and Discontinuance	MSR

**OTHER**

by vote of the Board of Selectmen

Billerica Community Alliance	All
Community Teamwork, Inc.	RMC

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to appoint Selectman Robert Correnti as the Board's representative to the Community Teamwork Incorporated.

It was voted:           5 – In Favor  
                                  0 – Opposed

**PRECINCT OFFICERS AND TOWN MEETING CHECKERS**

Town Manager John Curran stated we received the proposed list of Precinct Officers for the eleven polling locations and the list of Town Meeting Checkers for Fiscal Year 2013 from Town Clerk Shirley Schult. Massachusetts General Law, Chapter 54, Section 12 states that the appointments shall be made by the Board of Selectmen not earlier than July fifteenth and not later than August fifteenth.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve the appointments of Precinct Officers and Town Meeting Checkers for Fiscal Year 2013 as proposed by Town Clerk Shirley Schult in a memorandum dated June 21, 2012.

It was voted:           5 – In Favor  
                                  0 – Opposed

**HISTORIC DISTRICTS' COMMISSION (2 ALTERNATES)**

Selectman Robert Correnti, seconded by Selectman Michael Rosa, made a motion to appoint Michael Rea Jr. of 1 Collins-Rea Lane as an Alternate Member of the Historic Districts' Commission.

It was voted:           5 – In Favor  
                                  0 – Opposed

Selectman Robert Correnti, seconded by Selectman Michael Rosa, made a motion to appoint William Bulens of 14 Ferren Drive as an Alternate Member of the Historic Districts' Commission.

It was voted:           5 – In Favor  
                                  0 – Opposed

**SUBSTANCE ABUSE PREVENTION COMMITTEE (2)**

Selectman Robert Correnti, seconded by Selectman Michael Rosa, made a motion to appoint Dean Santoro of 116 Treble Cove Road as a Regular Member of the Substance Abuse Prevention Committee.

It was voted:           5 – In Favor  
                                  0 – Opposed

Selectman Robert Correnti, seconded by Selectman Michael Rosa, made a motion to appoint Stephen Moss of 374 Concord Road as a Regular Member of the Substance Abuse Prevention Committee.

It was voted:           5 – In Favor  
                                  0 – Opposed

**SPECIAL POLICE OFFICERS**

Selectman Robert Correnti, seconded by Selectman Michael Rosa, made a motion that the Board approve the proposed list of Special Police Officers as submitted by Police Chief Daniel Rosa dated June 7, 2012.

It was voted:           4 – In Favor  
                                  0 – Opposed  
                                  1 – Abstained (Selectman Accomando)

