

MEETING MINUTES **FOR AUGUST 21, 2012**

A Regular Meeting of the Board of Selectmen was held on Tuesday, August 21, 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, Town Manager John Curran and Assistant Town Manager Cathleen O'Dea. Selectman Robert Accomando was absent due to illness.

CALL TO ORDER

OPEN MICROPHONE

There was no one present who wished to speak at Open Microphone.

ANNOUNCEMENTS

VACANCIES ON BOARDS AND COMMITTEES

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

<u>POSITION</u>	<u># MEMBERS</u>
<u>Selectmen Appointments</u>	
Arts Council	1
Cable Advisory Committee	3
Cabot Land Reuse Committee	3
Commission on Disability	2
Elderly and Disabled Taxation Fund Committee	1
Financial & Compliance Audit Committee	2
Historic Districts Commission	7 alt.
Open Space & Recreation Committee	1
Scholarship Foundation Committee	2

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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.

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 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 1st, 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 31st 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.

PRESENTATION

FIRE DEPARTMENT PRESENTATION

Fire Chief Thomas Conway came to the podium and stated tonight we are going to recognize businesses in Billerica that have been very supportive of the Fire Department. This is long overdue. They have given their time, their facilities and their money in assisting the Billerica Fire Department with training and equipment. They have gone above and beyond the call of civic duty. We really appreciate it and we have plaques that we are going to present them.

The following businesses were recognized and presented with plaques:

- AS&E (American Science and Engineering)
- Holland Used Auto Parts (Bob Holland)
- W.L. French Excavating (Bill French)
- Lantheus Medical Imaging (Skip Roy)

OLD BUSINESS

TOWN MANAGER REPORTS

FISCAL EFFICIENCY

Town Manager John Curran stated the Town has received a recent donation of an Air Cascade System from MIT Lincoln Laboratory in Bedford. I am going to let Fire Chief Tom Conway further explain what this is.

Fire Chief Thomas Conway stated this is the breathing air they use to fill the air tanks at fires and hazmat incidents. This is top of the line equipment that had been deemed surplus and made available to area Fire Departments. We were also fortunate to find that this unit was 100 percent compatible with our existing air fill station. We have been able to double our air filling capabilities at virtually no cost. If we were to purchase this new unit, it would be in the \$7,000 to \$8,000 range. This donation was made possible thanks to the efforts of Billerica resident Mr. Jerry Aker and his supervisor Mr. William Conley of the MIT Lincoln Laboratory Property Office. The Billerica Fire Department is extremely grateful that these gentlemen took the time to reach out to us with this equipment.

EMPLOYEE RECOGNITION

Town Manager John Curran stated I just want to say how impressed I am with our new Fire Chief Tom Conway and the way he tackles everything. As you can see from tonight, he is 120 percent on top of everything he approaches and it is a real breathe of fresh air to see how dedicated he is to his job and how well he is doing in such a short period of time. The energy that he brings to that office is impressive and I see a lot of good things in the future for the Billerica Fire Department. I just want to make sure his efforts are recognized because it is a passion and a vocation for him more that it is a job.

MINUTES

AUGUST 6, 2012 (REGULAR SESSION)

Selectman Michael Rosa stated there was a scribners error on page 7. It should have been 4.5 million dollars, not 14.5 million dollars. Also, on page 11, regarding the LRTA, none of my comments that I said about the LRTA were included and I would like to have them added.

Selectman Robert Correnti, seconded by Selectman Michael Rosa, made a motion to accept the August 6, 2012 Regular Session Meeting Minutes as amended.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

PUBLIC HEARINGS

**BTU INTERNATIONAL, D/B/A MANUFACTURING, RE:
STORAGE OF 4,000 CUBIC FEET OF MIXED FLAMMABLE GAS
AT 23 ESQUIRE ROAD, BILLERICA, MA (CONTINUED FROM
JUNE 4, 2012)**

Secretary David Gagliardi stated BTU International, d/b/a BTU Manufacturing, has applied for 4,000 cubic feet of mixed flammable gas storage for their premises located at 23 Esquire Road in Billerica. This Public Hearing is being continued from June 4, 2012.

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Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board open this Public Hearing.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

Deputy Fire Chief Thomas Ferraro came to the podium and stated I have reviewed the license application for BTU located at 23 Esquire Road. This issue has been an on-going issue since last February. It was discovered at the time of their Fire Department permit renewal. BTU has outdoor hydrogen gas storage that is piped into the building. This created an issue with both the Fire and Building codes. BTU installed a “high flow” gas valve. This valve is an excess flow valve that would shut down the flow of hydrogen gas in the event of excessive flow. This in turn led to another issue of who permits the instillation of “high flow” gas valves. It was determined that this fell under the Building Code. BTU was advised to obtain a Building Permit, which they have done. This issue has been resolved, meeting both the Fire and Building Codes. I would recommend the following conditions be placed on the license:

Facility must comply with the following:

- Massachusetts General Law Chapter 148
- 527 CMR Massachusetts State Fire Code
- 780 CMR Massachusetts State Building Code
- NFPA -2 Hydrogen Technologies
- NFPA-55 Compressed Gases and Cryogenic Fluids

Selectman Michael Rosa asked if there were any abutter concerns. There were none.

Chairman Andrew Deslaurier asked if there was anyone in the audience who wished to speak regarding this issue. There was no one.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board close this Public Hearing.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

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Selectman David Gagliardi, seconded by Selectman Robert Correnti, made a motion that the Board approve the application of BTU International, d/b/a BTU Manufacturing, for a license for 4,000 cubic feet of mixed flammable gas storage for their premises located at 23 Esquire Road in Billerica and comply with all the conditions set forth by the Billerica Fire Department.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

**ISLAND HOSPITALITY MANAGEMENT III, INC., D/B/A
HOMWOOD SUITES BY HILTON, RE: TRANSFER OF A SEVEN
DAY WINE AND MALT BEVERAGE HOTEL LICENSE FROM
PROMUS HOTELS, LLC, D/B/A HOMWOOD SUITES BY
HILTON, LOCATED AT 35 MIDDLESEX TURNPIKE IN
BILLERICA**

Secretary David Gagliardi stated Island Hospitality Management III, Inc., d/b/a Homewood Suites by Hilton, has applied for a transfer of a Seven Day Wine and Malt Beverage Hotel License from Promus Hotels, LLC, d/b/a Homewood Suites by Hilton, at premises located at 35 Middlesex Turnpike, Billerica.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board open this Public Hearing.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

Attorney Joseph Devlin of Demakis Law Offices in Lynn came to the podium and stated I am here representing Island Hospitality Management III, Inc., d/b/a Homewood Suites by Hilton, who is changing management companies. The employees are remaining the same in the ordinary course of business. There will be a different Manager, but he is also a current employee at the hotel. The Change of Manager will be from Paul Delery to Abraham Armando Rivas DeJesus, who is here with me tonight. All other operations shall remain the same. To that end, I have submitted all the necessary documents with regard to the application for the transfer of the Seven Day Beer and Wine Hotel License. I have also included the Server Training Certificate.

Brief discussions ensued.

Chairman Andrew Deslaurier asked if there was anyone in the audience who wished to speak regarding this issue. There was no one.

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Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board close this Public Hearing.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

Selectman David Gagliardi, seconded by Selectman Robert Correnti, made a motion that the Board approve the request of Island Hospitality Management III, Inc., d/b/a Homewood Suites by Hilton, for the transfer of a Seven Day Beer and Wine Hotel License from Promus Hotels, LLC, d/b/a Homewood Suites by Hilton, at premises located at 35 Middlesex Turnpike, Billerica.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve the request of Island Hospitality Management III, Inc., d/b/a Homewood Suites by Hilton, for the transfer of Managers from Paul Delery to Abraham Armando Rivas DeJesus, Naturalization Number 34932298.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

ALLIANCE ENERGY D/B/A MOBIL/GLOBAL, RE: REQUEST FOR A FUEL STORAGE LICENSE TO STORE 38,000 GALLONS OF GASOLINE UNDERGROUND AND 12,000 GALLONS OF DIESEL FUEL UNDERGROUND AT 1 REPUBLIC ROAD IN BILLERICA

Secretary David Gagliardi stated Alliance Energy, d/b/a Mobil/Global, has applied for a Fuel Storage License for premises located at 1 Republic Road in North Billerica. This license will be to store 38,000 gallons of gasoline underground and 12,000 gallons of diesel fuel underground.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board open this Public Hearing.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

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Deputy Fire Chief Thomas Ferraro came to the podium and stated I have reviewed the license application for 1 Republic Road, Black Cove LLC. This is a new license for 38,000 gallons of gasoline and 12,000 gallons of diesel fuel. New underground storage tanks will be installed meeting today's codes. A representative is here tonight. I do have one question. When we did the application for the license, they had it as Black Cove LCC, which is the property owner. When we did the Selectmen's license, they listed it as Alliance Energy as the business. I am not sure because the license usually goes with the land.

Mr. Anthony Guba from Ayoub Engineering came to the podium and stated I am here tonight representing both Black Cove and Alliance Energy. Black Cove LLC is the owner of the property with Joe Sarro as principle. He has a long term lease with Alliance Energy, who is going to improve the property and build the buildings, put in the tanks, own the tanks and operate the tanks during the lifespan of the lease. Thus Alliance Energy is taking all the responsibility to obtain all the permits and licensing. The licensing does run with the land, so we put Black Cove LLC down as the owner of the land, but the petition is actually being done by Alliance Energy. In our mind, it does not matter who the license is made out to because it runs with the property, not with the owner or operator.

Brief discussions ensued regarding the fact that this Public Hearing was advertised as Alliance Energy, not Black Cove LLC. It was suggested that both names be placed on the license.

Deputy Fire Chief Thomas Ferraro further stated the Fire Prevention Bureau would recommend the following conditions be placed on the license:

Facility must comply with the following:

- All Town of Billerica Rules and Regulations
- Massachusetts General Laws regarding Underground Storage Tanks and Fire Prevention
- 527 CMR Massachusetts State Fire Code or any CMR that may be promulgated or changed by Massachusetts DEP

Chairman Andrew Deslaurier asked if there was anyone in the audience who wished to speak regarding this issue.

Mr. Bernie Hoar came to the podium and asked if this is a new facility or an expansion of an old facility.

Deputy Chief Thomas Ferraro answered the question to Mr. Hoar's complete satisfaction.

Selectman Michael Rosa asked if there were any abutter concerns. There were none.

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Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board close this Public Hearing.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve the request of Black Cove and Alliance Energy, d/b/a Mobil/Global, for underground storage of 38,000 gallons of gasoline and underground storage of 12,000 gallons of diesel fuel for premises located at 1 Republic Road in North Billerica and comply with all the conditions set forth by the Billerica Fire Department.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

NEW BUSINESS

BILLERICA HOLIDAY FESTIVAL, RE: BLANCHARD AVENUE CLOSING

Mr. George Merrill and Mr. John Gagliardi from the Billerica Holiday Festival Committee came to the podium and stated we are here tonight to request permission to once again close off Blanchard Avenue on Saturday, December 1, 2012 so we can locate the same Ice Skating Rink that was introduced last year. This Ice Skating Rink will be located on Blanchard Avenue, between the Council on Aging and the Town Library. We have reviewed the location and hours with the Town's Traffic Safety Officer and the Police Chief. At their suggestion, the skating hours will be Noon to approximately 6:00 PM, thereby reducing the nighttime hours for pedestrian traffic. Both have verbally approved the location and hours. It will take approximately two hours to set up the rink. Thus a portion of Blanchard Avenue would be closed from approximately 10:00 AM to approximately 7:00 PM. Vehicular traffic will still be able to access or exit Blanchard Avenue through the Council on Aging parking lot, as well as the Library parking lot and roadway between the Library and Masonic Hall. These routes and temporary blockage are at the suggestion and approval of our Traffic Safety Officer. While Blanchard Avenue is partially blocked, Public Safety personnel will be appropriately stationed to insure the safe flow of traffic. We are planning to meet individually with the residents of Blanchard Avenue to review the partial closure of the street. The Committee asks your support and approval of this partial closure of Blanchard Avenue.

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Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve the request of the Holiday Lighting Committee to close Blanchard Avenue to through traffic on Saturday, December 1, 2012 from 10:00 AM until 7:00 PM.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

Mr. Geroge Merrill further stated additionally we request the Board's approval to hang Holiday Festival Banners on utility poles around Billerica Center from November 14, 2012 through January 9, 2012.

Selectman David Gagliardi, seconded by Selectman Robert Correnti, made a motion that the Board approve the request of the Holiday Lighting Committee to hang Holiday Festival Banners on utility poles around Billerica Center from November 14, 2012 through January 9, 2012.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

**SRF LOAN APPLICATION FOR THE WASTEWATER
TREATMENT FACILITY AND PUMP STATION IMPROVEMENTS**

Town Manager John Curran stated this is routine authorization to give the Town Manager the authority to file this application for an SRF Loan. I did give you a project update sheet that gives you the list of all the things that are involved with this SRF, Sewer Contract 34B.

Mr. Thomas Hazlett from Woodard and Curran came to the podium and gave a brief outline of the things that were included in the SRF for Sewer Contract 34B.

Town Manager John Curran stated we are currently in the process of having spent in the last few years about \$33 million on Sewer Projects throughout the Town. This includes the Tertiary Treatment Plant that has recently been completed. It is significant because we are under a DEP Consent Order to do certain things in order to continue to expand our sewer collection system throughout the Town. Most people know that there is between 25 and 30 percent of the Town that still has yet to be sewered. We cannot do that until we finish these projects. There is a moratorium that has been placed on the Town by the DEP. Specifically, the DEP is looking for us to finish our Plant Expansion and to also rehabilitate our sewer pump stations. Town Meeting has approved all those things, including Contract 34B, which is the only collection system that the DEP has approved. We are moving ahead as aggressively as we can to advance the Sewer Program in the Town of Billerica to the tune of \$33 million.

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Brief discussions ensued.

Selectman David Gagliardi, seconded by Selectman Robert Correnti, made a motion that the Board approve the SRF Loan Application for the Wastewater Treatment Facility and Pump Station improvements.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

Selectman David Gagliardi, seconded by Selectman Robert Correnti, made the following motion:

AUTHORITY TO FILE

Whereas, the Town of Billerica, after thorough investigation, has determined that the work activity consisting of: Wastewater Treatment Facility and Pump Station Improvements is both in the public interest and necessary to protect the public health, and that to undertake this activity, it is necessary to apply for assistance; and

Whereas, the Massachusetts Department of Environmental Protection (the "MassDEP") and the Massachusetts Water Pollution Abatement Trust (the "Trust") of the Commonwealth of Massachusetts, pursuant to Chapter 21 and Chapter 29C of the General Laws of the Commonwealth ("Chapter 21" and "Chapter 29C") are authorized to make loans to municipalities for the purpose of funding planning and construction activities relative to Water Pollution Abatement Projects; and

Whereas, the Applicant has examined the provisions of the Act, Chapter 21 and Chapter 29C, and believes it to be in the public interest to file a loan application.

NOW, THEREFORE, BE IT RESOLVED by the Board of Selectmen as follows:

1. That the Town Manager is hereby authorized on behalf of the Applicant to file applications and execute agreements for grant and/or loan assistance as well as furnishing such information, data and documents pertaining to the applicant for a grant(s) and/or loan(s) as may be required; and otherwise to act as the authorized representative of the Applicant in connection with this application;
2. That the purpose of said loan(s), if awarded, shall be to fund construction activities.

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3. That if said award is made the Applicant agrees to pay those costs which constitute the required Applicant's share of the project cost.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

OLD BUSINESS

TOWN MANAGER REPORTS (CONTINUED)

PARKER SCHOOL

Town Manager John Curran stated the Parker School was issued a temporary occupancy permit on August 14th. The substantial completion will be issued next week. The teachers began moving in on August 15th. The River Street drainage project is underway and will be completed by Wednesday, August 22nd. That will bring to conclusion Phase I of the project. Phase II of the project will be the fields and the demolition of the old school. We expect that to go out to about November and that is proceeding on schedule right now. We do not expect any problems that would prevent the school from opening on time.

TOWN CENTER

Town Manager John Curran stated a meeting was held with Mass DOT, District Four, to discuss the Town Center Project. They are on board with the project. The best source of funding would be the NMCOG TIP. The Town will be seeking \$1.88 million to fund the State portion of the project, including the Charnstaffe traffic signal. Also, the Historic District Commission opened the Public Hearing for the Town Center Project on August 17th. They approved most of the design elements for 25% design. It is expected that they will approve the remainder of these elements on September 6th.

ELECTRONIC VOTING

Town Manager John Curran stated our IT Director, Chris Bartlett, is compiling the Town Meeting database for the software. Several subcommittees continue to meet to establish policies and procedures. A demonstration will be conducted with Town Meeting members on August 23rd in the Buck Auditorium. There will be three training sessions prior to Town Meeting for representatives to attend.

MIDDLESEX THREE MEETING

Town Manager John Curran stated the Middlesex Three Group met on August 17th to plan the kick-off event. This event will be held at 600 Technology Park in Billerica on October 2nd. Secretary Bialecki will be there as the guest speaker. Businesses from all five communities will be invested. This event is intended to highlight the purpose of the Middlesex Three to promote Economic Development within the region and finally to attract members.

OPEN MICROPHONE SIGN

Chairman Andrew Deslaurier stated this is the proposed language for the Open Mike sign:

Open Microphone Guidelines:

- Sign up for Open Microphone is between 6:30 PM and 7:00 PM on the night of the meeting.
- The period for Open Microphone is limited to the first 20 minutes at the beginning of each regularly scheduled meeting.
- All residents who sign up for Open Microphone will be recognized to the extent possible, so as not to conflict with other scheduled business on the agenda. This will be determined by the Chairman.
- Comments will be restricted to three (3) minutes in length. No personal comments will be tolerated.
- The Board is not expected to answer questions or make votes during Open Microphone.

Selectman Michael Rosa suggested possibly changing the wording “will be recognized to the extent possible” to “recognized in the order their names are on the sign in sheet” and changing the wording “no personal comments” to “no personal attacks” and adding language that states “the Board may respond as they see fit”.

Brief discussions ensued.

The Board decided they will inform Mr. Seth Oliver of these added suggestions.

BIKE PATH

Selectman David Gagliardi stated after our last meeting at which the Board re-started the Bike Path Committee with a new charge, I was contacted by the Chairman of the Bike Path Committee, Mr. Piscatelli, stating his concerns that the charge that the Committee was given was too narrow in scope. He stated his intention to place an article in the Fall Warrant seeking funding from Free Cash for the Bike Path. He also stated that he would rather not seek funds via the Town Warrant and would remove it if the Town made a commitment to begin funding the Bike Path using a three-pronged approach. First, by committing Town funds in some way. Second, by seeking State funds. Third, by creating a Non-Profit to raise funds privately. Working with Mr. Piscatelli and Town Manager John Curran, I was able to work out the following agreement between both parties:

- (1) The Town Manager will earmark \$200K of Free Cash destined for the Stabilization Account for use for Bike Path needs.
- (2) At a time of the Chairman's choosing, a Non-Profit will be created through the Town for the Committee to use for raising private funds.
- (3) The Committee's charge will be expanded to include speaking with other communities that have Bike Paths in an effort to glean any information from them that might be helpful to the Town. This is in addition to the charge given to the Committee to work with the State Representatives Office to seek State funding.

Selectman David Gagliardi further stated while I have the floor, I would like to once again re-state my purpose in creating this Committee. My intent was to have the Committee gather information the Board needs to make a decision, along with the Town Manager, on where the Bike Path belongs on our list of priorities. It was never the intent of the Committee to build a Bike Path. The decision on when and how that will happen resides with the Executive Branch of our Government per our Town Charter. It is also my intent to expand the Committee to include the Town Manager, Conservation Commissioner and the Recreation Director when we are finally ready to build sometime in the future.

Brief discussions ensued regarding design costs and when the money promised from the State will be made available to the Town.

Selectman David Gagliardi, seconded by Selectman Mike Rosa, made a motion that the Board expand the charge previously given to the Bike Path Committee to include working with other communities that have created Bike Paths to seek any information that may be helpful to the Town.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

NEW BUSINESS

**PRECINCT ONE (1) VOTING LOCATION FOR THE 2012
PRESIDENTIAL ELECTION ON NOVEMBER 6, 2012**

Town Clerk Shirley Schult came to the podium and stated I am here requesting a change in precinct location for the 2012 Presidential Election to be held on November 6, 2012. Due to parking considerations at the Parker School, it has been suggested that Town Hall serve as the voting location for Precinct One (1). It is fully anticipated that we will be able to use the Parker School as a voting location for all elections after the 2012 Presidential Primary.

Selectman David Gagliardi, seconded by Selectman Robert Correnti, made a motion that the Board approve the change in voting location for the November 6, 2012 Presidential Election from the Parker School to the Town Hall.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

Town Clerk Shirley Schult stated I hope everyone gets out and votes at the September 6th Primary. The poles will be open from 7:00 AM until 8:00 PM. Absentee ballots are available for anyone who cannot make it to the poles to vote.

**VILLAGGIO’S RESTAURANT, INC. LOCATED AT 56
CHELMSFORD ROAD, RE: CHANGE OF MANAGER FROM
KAREN M. CABRAL TO GEORGE L. DEMETROULAKOS**

Secretary David Gagliardi stated Villaggio’s Restaurant, Inc., d/b/a/ Villaggio’s Ristorante, which is located at 56 Chelmsford Road, is seeking a Change of Manager from Karen M. Cabral to George L. Demetroulakos.

Mr. George Demetroulakos and Mr. Lou Sanchez came to the podium and stated we are here tonight seeking a Change of Manager from Karen M. Cabral to myself, George L. Demetroulakos. There are no other changes other than this Change of Manager.

Brief discussions ensued about the fact that Mr. Demetroulakos is TIPS certified and will provide the Board with a copy of his certificate and the fact that there are no other changes other than this Change of Manager.

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Selectman David Gagliardi, seconded by Selectman Robert Correnti, made a motion that the Board approve the request for a Change of Manager of Villaggio's Restaurant, Inc., d/b/a/ Villaggio's Ristorante, which is located at 56 Chelmsford Road, from Karen M. Cabral to George L. Demetroulakos.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

99 RESTAURANTS OF BOSTON LLC, RE: CHANGE OF OFFICER/DIRECTOR AT 672 BOSTON ROAD AND 160 LEXINGTON ROAD IN BILLERICA, MA

Secretary David Gagliardi stated the 99 Restaurants of Boston, LLC is seeking a Change of Officer/Director at their locations of 672 Boston Road and 160 Lexington Road in Billerica.

Attorney Joseph Devlin from the Demakis Law Office in Lynn, MA came to the podium and stated I am here tonight representing the 99 Restaurants of Boston, LLC. This request is basically a housekeeping item which represents part of a transaction involving the sale of stock of the public company which owns all sixty-one (61) 99 Restaurants in Massachusetts. This transaction will not result in any change to the personnel, operation or physical structure of the restaurants in your community, other than in the ordinary course of business. We included the new Manager's documentation in the package we sent you.

Brief discussion ensued.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve the transfer of stock and the new Officers and Directors, as approved by the ABCC and evidenced in their letter to the Board dated July 3, 2012 for restaurants located at 672 Boston Road and 160 Lexington Road in Billerica. The new LLC Managers are as follows: Mr. Brent B. Bickett, Mr. Timothy T. Janszen, Mr. Hazem Ouf and Mr. George P. Scanlon.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

TOWN OF CARLISLE – SUPPORT FOR LAND GRANT APPLICATION

Selectman Robert Correnti stated this Board received a letter dated August 7th from Peter Scavongelli, Chairman of the Carlisle Board of Selectmen, requesting a letter of support from the Town of Billerica for Carlisle's Land Grant Application seeking funding to protect a key landscape on the Concord River. This property is a prominent nine acre property along the Concord River with approximately 1,000 feet of river frontage. The property connects to over 1,500 acres of existing protected land. It is certainly a critical property needing perpetual protection. I did attach a draft copy of a letter of support.

Town Manager John Curran stated the Billerica Conservation Commission has already written a letter of support for this.

Selectman Robert Correnti, seconded by Selectman Michael Rosa, made a motion that the Board send a letter of support to the Town of Carlisle for a Land Grant Application seeking funding to protect key landscape on the Concord River.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

KHD INC. D/B/A HIGH OCTANE HARLEY DAVIDSON LOCATED AT 1 CHELMSFORD ROAD, RE: ONE DAY BEER AND WINE LICENSES AND ONE DAY ENTERTAINMENT LICENSES FOR SEPTEMBER 8, 9, 20, 22, 23 AND OCTOBER 13 AND 14, 2012

Secretary David Gagliardi stated KHD Inc, d/b/a High Octane Harley Davidson, which is located at 1 Chelmsford Road, is seeking One Day Beer and Wine Licenses for September 8, 9, 20, 22, 23 and October 13 and 14, 2012.

Ms. Lauren Veracka from High Octane Harley Davidson came to the podium and stated I am here requesting One Day Beer and Wine Licenses and One Day Entertainment Licenses for the following dates and times: Saturday, September 8, 2012 from 11:00 AM until 4:30 PM, Sunday, September 9, 2012 from Noon until 3:30 PM, Thursday, September 20, 2012 from 5:00 PM until 8:30 PM, Saturday, September 22, 2012 from 11:00 AM until 4:30 PM, Sunday, September 23, 2012 from Noon until 3:30 PM, Saturday, October 13, 2012 from 11:00 AM until 4:30 PM and Sunday, October 14, 2012 from Noon to 3:30 PM.

Selectman Michael Rosa stated I noticed that regarding the One Day Beer and Wine Licenses you only have the one sign off for all of them from the Police Department, Sgt. Conway.

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Ms. Lauren Veracka stated in the past that is all that was required, so when I went around to get all the signatures and I only had them sign off on the Entertainment Licenses because in the past that is all that we had them sign off on. In the Spring all the One Day Beer and Wine Licenses that you granted were contingent upon Sgt. Conway's approval. I didn't get his signature because that is how I did it in the past, so I just continued to do it the same.

Selectman Michael Rosa stated I don't remember seeing applications with only one sign off, because I would of brought it up then.

Selectman Robert Correnti stated Selectman Rosa is correct. Previous applications had multiple signatures. We could approve these subject to Ms. Veracka obtaining all the necessary signatures.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve the request of KHD Inc, d/b/a High Octane Harley Davidson, which is located at 1 Chelmsford Road, for One Day Beer and Wine Licenses, contingent upon getting the balance of the signatures, for the following dates and times: Saturday, September 8, 2012 from 11:00 AM until 4:30 PM, Sunday, September 9, 2012 from Noon until 3:30 PM, Thursday, September 20, 2012 from 5:00 PM until 8:30 PM, Saturday, September 22, 2012 from 11:00 AM until 4:30 PM, Sunday, September 23, 2012 from Noon until 3:30 PM, Saturday, October 13, 2012 from 11:00 AM until 4:30 PM and Sunday, October 14, 2012 from Noon to 3:30 PM.

It was voted: 3 – In Favor
 1 – Opposed (Selectman Deslaurier)
 1 – Absent (Selectman Accomando)

Selectman Michael Rosa stated for the record, we do have all the necessary insurance documents on file in the Selectmen's Office

Selectman David Gagliardi, seconded by Selectman Robert Correnti, made a motion that the Board approve the request of KHD Inc, d/b/a High Octane Harley Davidson, which is located at 1 Chelmsford Road, for One Day Entertainment Licenses for the following dates and times: Saturday, September 8, 2012 from 11:00 AM until 5:00 PM, Sunday, September 9, 2012 from 11:00 AM until 4:00 PM, Thursday, September 20, 2012 from 5:00 PM until 8:30 PM, Saturday, September 22, 2012 from 11:00 AM until 5:00 PM, Sunday, September 23, 2012 from 11:00 AM until 4:00 PM, Saturday, October 13, 2012 from 11:00 AM until 5:00 PM and Sunday, October 14, 2012 from 11:00 AM until 4:00 PM.

It was voted: 4 – In Favor
 1 – Absent (Selectman Accomando)

APPOINTMENTS TO REGIONAL BOARDS

Chairman Andrew Deslaurier stated we have had some information come to head regarding the conduct of appointments to a Regional Board. As Chairman, I asked Town Counsel Patrick Costello to be present here tonight. I also asked him to look into seeing where the State Law and the Policies and Procedures of this Board may be in conflict. I have provided the memorandum that states, and Town Counsel can correct me if I am wrong, that State Law would supercede what we have on our Board of Selectmen's Policies and Procedures, that it is the Chairman's appointment, the Town Manager or the Chairman's Designee.

Town Counsel Patrick Costello came to the podium and stated an inquiry was made relative to the appointment process to the LRTA. The appointment process for Advisory Boards for Regional Transit Authorities is determined by General Law. It is not a local per say Board of Selectmen appointment. The statutory language of M.G.L. Chapter 161B, Subsection 5, which is a component of the LRTA enabling legislation, specifically designates the Chairman of the Board of Selectmen, the Town Manager, or the Chairman's Designee, who is appointed by a written filing with the LRTA, to serve on the Advisory Board. The provision expressly states that it is the Chairman rather than the full Board of Selectmen that may appoint the designee. A designee appointed by the Chairman of the Board of Selectmen may act on his behalf as a member of the Advisory Board. Despite the fact that the Board of Selectmen's Policies and Procedures Section 11.3 states, "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", the legal doctrine of pre-emption inconsistent with the State Constitution or General Laws. Therefore, based upon the statutory language of M.G.L. Chapter 161B, Subsection 5, the Chairman serves, ex officio, as the appointee to the Advisory Board. As a result, it is the Chairman's right to appoint his designee to the LRTA Advisory Board.

Chairman Andrew Deslaurier stated as part of this update, I am going to ask Secretary David Gagliardi to draft an update to our Policies and Procedures to bring them into compliance and then we can bring it forward at a later meeting to approve and add to our Policies and Procedures. This Board did take a vote, as it turns out, was more or less applicable to the appointment and I made a prior appointment at an earlier date of Mr. Ramos in place of Mr. Doyle, who had served this community for quite some time. That is my intention at this time to make that appointment. Change can be difficult and being that this is my only authority; this is my unilateral authority as Town Counsel just stated, I am not going to invest a lot of debate over this. We are going to move on. This is my appointment and the authority rests with me. I appreciate everyone who serves this community; a community that I chose to become a part of.

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Selectman Robert Correnti asked the Chairman to be allowed to speak.

Chairman Andrew Deslaurier stated we are moving on and I am not recognizing you.

Selectman Robert Correnti stated I am asking the Board to take a vote to give me the opportunity to speak. I take exception. I spoke about this previously and I think I should be given the courtesy to speak.

Chairman Andrew Deslaurier stated as Chairman I have decided we are moving on.

Selectman Robert Correnti stated I appeal your decision and I want a vote of this Board as to whether or not I am allowed to speak. Out of simple professional courtesy I should think I would be granted the opportunity to speak.

Chairman Andrew Deslaurier stated as Chairman I am making the decision that we are moving on.

PRELIMINARY WARRANT ARTICLES – 2012 FALL TOWN MEETING

Town Manager John Curran stated I have provided you all with a copy of the Preliminary Warrant. This Board can review the Warrant Articles that are sponsored by my office and are authorized by the Board of Selectmen.

Town Manager John Curran gave the Board a presentation/outline, and answered questions from the Board, regarding Warrant Articles in the Fall 2012 Preliminary Warrant that are sponsored by the Town Manager's Office and are authorized by the Board of Selectmen. A copy of this Fall 2012 Preliminary Warrant is on file in the Selectmen's Office.

Town Manager John Curran stated the Preliminary Warrant will be posted by August 23, 2012.

MEETING SCHEDULE

September 10 and 24, 2012

October 15 and 29, 2012

October 2, 4, 9, 11, 16, 18, 23 and 26 at 6:00 PM prior to Town Meeting, if necessary.

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Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board adjourn at 8:54 PM into Executive Session for the purpose of discussing pending claims relative to the Shafer Landfill Project; after which we will return to Public Session for the purpose of adjourning.

It was voted:	Selectman Robert Correnti	Aye
	Selectman David Gagliardi	Aye
	Selectman Michael Rosa	Aye
	Selectman Andrew Deslaurier	Aye

A TRUE COPY ATTEST

Susan Michelini, Recording Secretary