

MEETING MINUTES **FOR OCTOBER 15, 2012**

A Regular Meeting of the Board of Selectmen was held on Monday, October 15, 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 and Assistant Town Manager Cathleen O'Dea. Town Manager John Curran was absent due to illness.

CALL TO ORDER

OPEN MICROPHONE

Ms. Caroline Catlender from the Billerica Community Alliance came to the podium and spoke regarding the Billerica Community Alliance Grants.

Mr. Seth Oliver from 43 Pond Street came to the podium and spoke regarding Billerica Youth Hockey.

ANNOUNCEMENTS

COMMUNITY FUNDS 2012

Secretary David Gagliardi stated Community Funds are reflective of the partnership entered into by the Town of Billerica and companies that became certified projects and will result in meaningful community benefit. Grant application forms are available in the Office of the Board of Selectmen. Questions regarding the Community Funds should be directed to the Office of the Board of Selectmen, Town Hall, 365 Boston Road, Billerica, MA 01821 or 978-671-0939. Applications for the Community Funds will be accepted until 4:00 PM on Friday, November 2, 2012 in the Office of the Board of Selectmen. The Board expects to announce the awards at its meeting of Monday, December 7, 2012. Awards will be presented at the meeting of December 17, 2012.

PUBLIC SAFETY MEMORIAL

Selectman Robert Correnti stated the Billerica Public Safety Memorial, which will honor Billerica Police, Fire and Paramedics who have died in the line of active duty, will be located in front of Town Hall. It will be built with private funding. The dedication is planned for the Fall of 2013. Help make this memorial possible by making a tax-deductible donation. Donations of \$75.00 or more will be recognized on a plaque in Town Hall. For more information and a copy of the donation form, which is important to insure proper recognition of donors, please go to www.billericapublicsafety Memorial.org. The donation and donation form can be sent to the Billerica Public Safety Memorial Fund, care of the Billerica Board of Selectmen, Billerica Town Hall, 365 Boston Road, Billerica MA 01821.

HAPPY HOLIDAYS – 2012 SCHEDULE OF EVENTS

Selectman Robert Correnti stated the Billerica Holiday Festival has announced the following 2012 Schedule of Events:

Saturday, November 10th

Home for the Holidays display set up begins at the Library

Friday, November 16th

Home for the Holidays Reception

Saturday, November 17th

Home for the Holidays Display Open to the Public

Saturday, December 1st

Free Outdoor Public Skating. This year the “rink” will be bigger (30’ by 60’) to accommodate more skaters. Skating will be available from Noon to 6:00 PM.

Saturday, December 1st

The Tree Lighting Festivities will begin at 4:30 PM and conclude with the actual Tree Lighting at 5:30 PM.

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Saturday, December 8th

Pictures with Santa will be taken at the Bennett Library from 11:00 AM until 2:30 PM.

Sunday, December 9th

Last day for Home for the Holidays Display

Monday, December 10th

Home for the Holidays Drawings

If you have any questions, you can go the Billerica Holiday Festival website at info@billericaholidayfestival.org.

16TH ANNUAL EVENING OF WINE TASTING AT THE BILLERICA PUBLIC LIBRARY ON OCTOBER 26, 2012

Secretary David Gagliardi stated the Billerica Public Library Foundation, Inc. is holding their 16th Annual Evening of Wine Tasting at the Billerica Public Library on Friday, October 26th from 7:00 PM until 9:00 PM. There will be fine wines, beers, hors d'oeuvres and a Silent Auction. Tickets are available at the Library and at Lincoln Liquors. Advance tickets are \$30 and \$35 at the door. For further information please call 978-671-0948.

HOUSEHOLD HAZARDOUS WASTE DROP-OFF, OCTOBER 20TH, 2012 AT THE DPW HIGHWAY YARD

Secretary David Gagliardi stated there will be a Household Hazardous Waste Drop-Off Day on Saturday, October 20th from 9:00 AM until 1:00 pm at the DPW Highway Yard located at 250 Boston Road. This is for Billerica residents only and proof of residency is required. For more information please go to www.billericadpw.org.

**FALL 2012 YARD WASTE COLLECTION (FIVE WEEKS
BEGINNING NOVEMBER 5TH, 2012)**

Secretary David Gagliardi stated the Town of Billerica Fall 2012 Yard Waste Collection will begin on November 5th and run for five weeks. Here is the following schedule:

**West Billerica, Talbot Avenue – Lowell Street area starts:
Monday 11/5 – ends Monday 12/3**

**Nutting Lake, Riverdale area, Riverhurst area starts:
Tuesday 11/6 – Ends Tuesday 12/4**

**Pinehurst, Cook Street – Alexander Road area starts:
Wednesday 11/7 – Ends Wednesday 12/5**

**East Billerica, Tower Farm area starts:
Thursday 11/8 – Ends Thursday 12/6**

**North Billerica, Pond Street area starts:
Friday 11/9 – Ends Friday 12/7**

- **YARD WASTE MUST BE PLACED CURBSIDE**
- **MUST USE BIO-DEGRADABLE PAPER BAGS OR BARRELS CLEARLY MARKED FOR YARD WASTE**
- **NO PLASTIC BAGS WILL BE ACCEPTED**

SEE www.billericadpw.org (GIS & MAPS)

**FOR DETAILED MAP OF COLLECTION DAY SCHEDULE OR CALL 978-436-9178 FOR
MORE INFORMATION**

PRESENTATION

FIRE CHIEF THOMAS H. CONWAY, RE: GRADUATION AND PROMOTIONS

Fire Chief Thomas Conway came to the podium and proceeded to give a presentation regarding the promotions and graduation of the following individuals:

- Firefighter Steve Morrison (Recent Graduate of the Massachusetts Firefighting Academy)
- Lieutenant Steve Kennedy (Promoted to Lieutenant)
- Captain Joseph Bradley (Promoted to Captain)
- Deputy Chief Bob Cole (Promoted to Deputy Chief)

The Board congratulated all four gentlemen on their achievements.

MINUTES

SEPTEMBER 10, 2012 (REGULAR SESSION)

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to accept the September 10, 2012 Regular Session Meeting Minutes as submitted.

It was voted: 5 – In Favor
 0 – Opposed

SEPTEMBER 24, 2012 (REGULAR SESSION)

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to accept the September 24, 2012 Regular Session Meeting Minutes as submitted.

It was voted: 5 – In Favor
 0 – Opposed

PUBLIC HEARING

MARSHALL'S AUTO SALES, LLC, D/B/A MARSHALL'S AUTO SALES, 279 BOSTON ROAD (MOVING FROM 128 POND STREET), RE: CLASS II LICENSE (ABUTTER NOTIFICATION NOT REQUIRED)

Secretary David Gagliardi stated Marshall's Auto Sales, LLC, d/b/a Marshall's Auto Sales is seeking a new Class II License for their new location at 279 Boston Road.

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

It was voted: 5 – In Favor
 0 – Opposed

Attorney Stephen Lentine of 409 Boston Road came to the podium and stated I am here tonight representing Marshall's Auto Sales, LLC, db/a Marshall's Auto Sales. I have Mr. Jim Marshall here with me, who is the owner and manager. Marshall's Auto Sales is seeking a new Class II Used Car Auto Sales License for 279 Boston Road under Chapter 140. This is the former site of Amici's Restaurant. Jim is proposing to revitalize the site with a first class used car rental facility. He will have 75 vehicles on site for sale as well as staff. There will also be a Hertz used car rental facility there. Their hours of operation will be Weekdays, 8:00 AM until 7:00 PM and Saturday, 8:00 AM until 5:00 PM. They will be closed on Sundays. We did need to seek a variance since there was another business within 1,300 square feet. We did get a variance from the Board of Appeals. Jim had met with Police Safety Officer Martin Conway in advance of the Board of Appeals hearing. Marty's only concern was an access or egress that runs onto Bridge Street and at that same spot there is some low-dipping wires that had been previously knocked down by a truck trying to enter or exit the site. We agreed that basically all deliveries of cars for sale would first go to Jim's facility at 128 Pond Street and there they will be prepped for sale. From there they will be individually driven to 279 Boston Road. Jim also worked out with Marty how the parking would be laid out within the site to facilitate traffic coming in and out of the site. The Special Permit was granted unanimously by the Board of Appeals. He hopes to open November 1st, 2012.

Brief discussions ensued.

Chairman Andrew Deslaurier asked if there was anyone present who wished to speak regarding this matter. 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: 5 – In Favor
 0 – Opposed

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to grant a Class II License to Marshall's Auto Sales, LLC, d/b/a Marshall's Auto Sales, for their new location at 279 Boston Road. Hours of operation will be Weekdays, 8:00 AM until 7:00 PM and Saturday, 8:00 AM until 5:00 PM; contingent upon all Zoning Board of Appeals rulings and the completion of the 20 day appeal period.

It was voted: 5 – In Favor
 0 – Opposed

OLD BUSINESS

TOWN MANAGER REPORT

AKERSON FIELD LITIGATION

Assistant Town Manager Cathleen O'Dea stated regarding the Akerson Field Litigation, the Land Court granted summary judgment in favor of the Town of Billerica on each count of the plaintiff's complaint. So far the Town has prevailed upon every count that has been raised by the opponents of the telecommunication lease for this site. The proposed mandamus challenge, which we are going through now, raises a new argument, that if successful would raise issues with numerous past telecommunication facility projects, not just the one at Akerson Field, but all those that have been approved in the Commonwealth. The Town is responding to this challenge and accepts that it could be a lengthy process. We did want to emphasize, however, that as of this date, the Town has prevailed in Land Court action and the Curley's pending complaint has been dismissed.

Assistant Town Manager Cathleen O'Dea stated I am pinch-hitting for the Town Manager, who as many of you know had eye surgery last week but then had to go back into the hospital on Saturday for follow-up surgery. I spoke with him today and he is doing well and according to all accounts will probably be joining us at Town Meeting tomorrow night.

BILLERICA PUBLIC LIBRARY FOUNDATION, INC., RE: ONE DAY ALL ALCOHOLIC LICENSE FOR SATURDAY, OCTOBER 26TH FROM 7:00 PM UNTIL 9:00 PM AT THE LIBRARY FOR THEIR 16TH ANNUAL EVENING OF WINE TASTING

Selectman Robert Correnti stated this was submitted at our last meeting, but we did not have a completed application. We have that tonight. The Billerica Public Library Foundation, Inc. is seeking a One Day All Alcoholic License for their 16th Annual Evening of Wine Tasting being held on Friday, October 26, 2012 from 7:00 PM until 9:00 PM. They are requesting that any fees associated with obtaining this license be waived.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve a One Day All Alcoholic License for the Billerica Public Library Foundation, Inc. for their 16th Annual Evening of Wine Tasting being held on Friday, October 26, 2012 from 7:00 PM until 9:00 PM at the Billerica Public Library located at 15 Concord Road. All fees are to be waived.

It was voted: 5 – In Favor
 0 – Opposed

NEW BUSINESS

CABLE ADVISORY COMMITTEE, RE: COMMUNITY CABLE CAPITAL FUND GRANT APPLICATION – BMHS MEDIA LITERACY TEACHER

Selectman Robert Correnti stated Selectman Andrew Deslaurier and myself are members of the Cable Advisory Committee. At the meeting of October 8, 2012, the Cable Advisory Committee unanimously voted (4-0) to recommend that the Board of Selectmen approve the Community Cable Capital Fund Grant proposal of Billerica Memorial High School media literacy teacher Shawn Landry for the full requested amount of \$9,700. This grant proposal is intended to enhance the educational experience of Billerica Memorial High School students and the Cable Advisory Committee is convinced that the cable subscribers of Billerica will benefit from video programming produced from the use of equipment and/or materials purchased through this allowance. Members also made sure to stress to Mr. Landry that the portion of his class curriculum augmented by this grant must be geared to serve some Town-wide “cable-related” purpose. The Cable Advisory Committee also encouraged Mr. Landry to continue to cooperate with Billerica Access Television and utilize its equipment and facility as much as possible in order to

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further his students' exposure to multi-media production. If the Board of Selectmen approves this grant for the full amount, the expenditure will leave a balance of \$71,300 for the remainder of the 2012 calendar year in the Community Cable Capital Fund Grant revolving account for consideration regarding other potential applications.

Billerica Memorial High School media literacy teacher Shawn Landry came to the podium and spoke regarding this issue.

Brief discussions ensued.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve the Community Cable Capital Fund Grant Application for Billerica Memorial High School located at 35 River Street in the amount of \$9,700 as recommended by the Cable Advisory Committee.

It was voted: 5 – In Favor
 0 – Opposed

**VIA DELL AMORE, INC., D/B/A VIA DELL AMORE
RESTAURANT, 749 BOSTON ROAD, RE: COMMON
VICTUALLER LICENSE**

Secretary David Gagliardi stated Via Dell Amore, Inc., d/b/a Via Dell Amore Restaurant located at 749 Boston Road is seeking a Common Victualler License.

Attorney Stephen Lentine of 409 Boston Road came to the podium and stated I am here tonight representing Via Dell Amore, Inc., d/b/a Via Dell Amore Restaurant located at 749 Boston Road, who is seeking a Common Victualler License for a 24 seat Italian style restaurant. You are probably familiar with this site, Turco's Swing Center, which is owned by Torey's family. We did appear before the Zoning Board of Appeals quite a while ago. We did get a site plan Special Permit. We had a lot of back and forth in that interim period. We finally did work out an operation maintenance plan with them. We did get a variance needed from them a couple of months ago. The reason for that is that the site is located within a flood plain. Hours of operation are Monday thru Thursday, 7:00 AM until 10:30 PM, Friday and Saturday, 7:00 AM until 12:30 AM and Sunday, 7:00 AM until 10:30 PM. Manager of Record will be Mr. Salvatore Turco. We have all the necessary sign-offs.

Brief discussions ensued.

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Selectman David Gagliardi, seconded by Selectman Robert Correnti, made a motion that the Board approve a Common Victualler License to Via Dell Amore, Inc., d/b/a Via Dell Amore Restaurant located at 749 Boston Road. Hours of operation are Sunday thru Thursday, 7:00 AM until 10:30 PM, Friday and Saturday, 7:00 AM until 12:30 AM. This is contingent upon all Zoning Board of Appeals rulings and Board of Health variances.

It was voted: 5 – In Favor
 0 – Opposed

**BILLERICA HOCKEY ASSOCIATION, RE: PERMISSION TO
HOLD A CANISTER DRIVE ON THE TOWN COMMON ON
SATURDAY, OCTOBER 27, 2012 FROM 8:00 AM UNTIL 1:00 PM**

Mr. Seth Oliver from the Billerica Hockey Association came to the podium and stated each year the Billerica Hockey Association looks to the Town of Billerica, local businesses and individuals to help support our fundraising efforts and defray the costs of the program to the boys and girls of the Billerica Hockey Association and the Billerica Hockey Association Figure Skating Program. We are asking for this Boards support for our Canister Drive to be held on Saturday, October 27th from 8:00 AM until 1:00 PM. We are looking for your permission to have several parents/coaches and players around the Billerica Common at the traffic intersections with canisters to collect donations.

Brief discussions ensued regarding the issue that the parents/coaches would be collecting the money from the motor vehicles and the players would be holding signs while standing in the Town Common. Selectman Michael Rosa suggested also placing signs on the Town Common.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve the request of the Billerica Hockey Association to hold a Canister Drive on the Town Common on Saturday, October 27th from 8:00 AM until 1:00 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 the Billerica Hockey Association for up to four signs on the Town Common for their Canister Drive on Saturday, October 27th from 8:00 AM until 1:00 PM.

It was voted: 5 – In Favor
 0 – Opposed

**ONE 27 GLOBAL, RE: ONE DAY ALL ALCOHOLIC LICENSE
FOR SATURDAY, OCTOBER 20, 2012 FROM 6:30 PM UNTIL
MIDNIGHT**

Mr. Tobi Marx, the Founder of One 27 Global, came to the podium and stated we are seeking a One Day All Alcoholic License for Saturday, October 20, 2012 from 6:30 PM until Midnight for a fundraising event to be held at Prise De Fer Fencing Club located at 71 Faulkner Street in North Billerica. The event will be hosted by Boston's Best Bartending Service and all of the beer and wine will be purchased by MS Walker, a local wholesaler. The Billerica Police Department has no objections to this and they have been provided with a Liquor Liability Policy held by Boston's Best Bartending Service that includes a rider specific to the Town of Billerica and One 27 Global for this event.

Brief discussions ensued about One 27 Global being a Humanitarian Organization that is dedicated to improving the lives of children in their communities globally.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board grant a One Day All Alcoholic License for One 27 Global for Saturday, October 20, 2012 from 6:30 PM until Midnight for a fundraising event to be held at Prise De Fer Fencing Club located at 71 Faulkner Street in North Billerica.

It was voted: 5 – In Favor
 0 – Opposed

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board grant a One Day Entertainment License for One 27 Global for Saturday, October 20, 2012 from 6:30 PM until Midnight for a fundraising event to be held at Prise De Fer Fencing Club located at 71 Faulkner Street in North Billerica.

It was voted: 5 – In Favor
 0 – Opposed

BOARD OF SELECTMEN APPOINTMENT – TREE WARDEN

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board re-appoint Cemetery, Parks and Trees Superintendent Everett Crotty as the Tree Warden in the Town of Billerica.

It was voted: 5 – In Favor
 0 – Opposed

ADDENDUM

LOCAL INITIATIVE PROGRAM APPLICATION FOR LOCAL ACTION UNITS FOR AVA ESTATES, AKA ARAKELIAN FARMS, 90 RANGEWAY ROAD IN NORTH BILLERICA

Attorney Carla Page came to the podium and stated I am here tonight representing Value Homes LLC. As you recall, we were here at your last meeting asking that you sign off on the Local Initiative Program application for Ava Estates, aka Arakelian Farms, located at 90 Rangeway Road. It is 26 units, of which 4 would be affordable units. At that time you decided not to take a vote because your Town Counsel had not reviewed it. Since that time your Town Counsel has reviewed the application, as well as the redlined Regulatory Agreement, the Master Deed, which is part of the condo documents, the Affirmative Action Plan and the Lottery Plan. He and I corresponded last Friday and he had a few questions that got answered. He also spoke with Tony Fields, your Planning Director, to confirm that he had been in touch with us. Your Town Counsel has recommended that you approve the LIP application. We are here before you to ask that you approve the LIP application and that you authorize your Chairman to sign the application tonight and that you also authorize the Chairman to sign the Regulatory Agreement once it is in its final form upon review of the redlined version from the Department of Housing, the DHCD.

Selectman Michael Rosa stated what would actually compel this Board to approve this application.

Attorney Carla Page stated this would create 4 affordable housing units for the Town, these 26 units would add tax revenue for the Town, and this would help the Town meet their affordable housing minimum standard of ten percent each year.

Selectman Michael Rosa stated in Billerica if you wanted to do this townhouse project, you could come to Town Meeting and apply for a Townhouse Overlay Zoning, which also in Billerica we have a By-Law that 20 percent would be affordable units if it passed anyway. So the affordable component is kind of a wash. This is a hybrid 40B essentially, except you are not going before the Board of Appeals. This is a streamlined approach as opposed to going before Town Meeting and asking for an overlay.

Attorney Carla Page stated in a way it is similar to the 40B in the sense that it does create some affordable housing stock. It is not under 40B; it has to be under a comprehensive permit.

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Selectman Michael Rosa stated you hit on tax dollars. That is a double-edge sword. Yes, by creating 26 units on 4 acres does generate tax dollars. The flip side to that is it also has a negative impact to our water and sewer supplies and our school system. These are real issues and we have been hit hard by 40B's over the past few years. I am not inclined to support something like this when we have got units all over town that are available that are 40B projects. Off of Concord Road there was a project that created 280 units. I cannot support this because I think that if you wanted to do a townhouse, you could have gone through the Town Meeting process and gone for an overlay. You might not have gotten the density that you are looking for, but there was an alternative process. This town has already been inundated with 40B's and high-density projects. I just think it will further exacerbate our resources.

Selectman Robert Correnti stated I agree with my colleague. I think this is what is known as a friendly 40B. This is where the community joins in what is called a Local Initiative Project to encourage affordable housing within the community. The Planning Board stated that the requested use would not overload any drainage or sewer system.

Attorney Carla Page stated it is going to be private septic, two bedroom units on close to five acres. It is a relatively small townhouse community, just 26 units. Since these are just two bedrooms, that limits it to small families, which should not overload the school system.

Selectman Robert Correnti stated what the community is trying to do on its own is work with certain projects to achieve affordable housing so we can achieve the mandated number. Hopefully we can avoid the onslaught of getting hammered by some of these large projects that we don't want. The Local Initiative Program was designed so that the community can work with a developer to create housing that is esthetically pleasing and have the correct number of units so that the community is not overloaded and have to deal with projects that number in the 200 or 300 units. This would demonstrate that Billerica is working in a positive fashion to achieve affordable housing rather than being reactive by being hit by a 40B. Due to my aforementioned reasons, I will support this.

Attorney Carla Page stated this has been a number of years in the making. Mr. Arakelian has been working with all of the Boards in order to create this project here and it is actually in the townhouse overlay district. It was delayed because there was some litigation with the neighbors, but that has all been settled.

Brief discussions ensued regarding the need for more affordable housing, those who feel there is and those who feel there is not. Density, congestion and traffic concerns on Rangeway Road were also discussed.

Selectman Michael Rosa stated you stated that this land had a townhouse overlay on it. Did you go before Town Meeting and have this voted?

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Mr. Arakelian stated yes I did, but I don't remember exactly when. I think it was in 2006.

Selectman David Gagliardi, seconded by Selectman Robert Correnti, made a motion that the Board approve the Local Initiative Program Application for Ava Estates, aka Arakelian Farms, at 90 Rangeway Road in North Billerica.

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

Selectman David Gagliardi, seconded by Selectman Robert Correnti, made a motion that the Chairman sign the Local Initiative Program Application.

It was voted: 5 – In Favor
 0 – Opposed

Selectman David Gagliardi, seconded by Selectman Robert Correnti, made a motion that the Chairman be authorized to sign the Regulatory Agreement once it is in its final form upon review of the redline version by the DHCD attorney.

It was voted: 5 – In Favor
 0 – Opposed

MEETING SCHEDULE

October 29, 2012
November 5 and 19, 2012 (changed from November 12 and 26)

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

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board adjourn at 9:05 PM.

It was voted: 5 – In Favor
 0 – Opposed

A TRUE COPY ATTEST

Susan Michelini, Recording Secretary