

MEETING MINUTES **FOR FEBRUARY 4, 2013**

A Regular Meeting of the Board of Selectmen was held on Monday, February 4, 2013 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.

CALL TO ORDER

MOMENT OF SILENCE

A Moment of Silence was given for Retired Firefighter Leo F. Flavin, Senior. Leo was born December 2, 1934 and died January 28, 2013. He was appointed to the Billerica Fire Department December 1, 1961 and served the Town of Billerica for 32 years; retiring on June 27th, 1993.

OPEN MICROPHONE

Mr. David Johnson from 113 Gray Street came to the podium and expressed his opinions regarding Waste Management Single Stream Recycling at the Globe Printing Facility on Salem Road.

Town Manager John Curran stated this petitioner has not filed for any permit or submitted any application of any kind with the Town of Billerica. I know they have been before the Conservation Commission for outside issues. All the issues and concerns would be addressed through the permitting process. At this point there is nothing to address, because as I said, they have not filed for any permits or submitted any applications.

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>NUMBER OF MEMBERS</u>
<u>Selectmen Appointments</u>	
Arts Council	3
Cabot Land Reuse Committee	3
Commission on Disability	1
Elderly and Disabled Taxation Fund Committee	1
Financial & Compliance Audit Committee	2
Historic Districts Commission	4 alt.
Open Space & Recreation Committee	2
Scholarship Foundation Committee	1
Substance Abuse Prevention Committee	6
Traffic Management Committee	1 (East)
<u>Town Manager Appointments</u>	
Beautification Committee	3
Housing Partnership Committee	2
<u>Moderator Appointments</u>	
Composting Committee	6
Financial & Compliance Audit Committee	3
Personnel Board	4
Town Meeting Warrant Action Committee	1

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

BOARD OF SELECTMEN MEETING MINUTES
FEBRUARY 4, 2013

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.

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.

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.billericapublicsafetymemorial.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.

MERRIMACK VALLEY HOUSING PARTNERSHIP, PROJECT GENESIS, HOME BUYER TRAINING CLASSES 2013 SCHEDULE

Secretary David Gagliardi stated the Merrimack Valley Housing Partnership, Project Genesis, is hosting Home Buyer Training Classes to promote responsible and sustainable home ownership. They will have classes in English, Spanish and Khmer. Classes will be held at Middlesex Community College in downtown Lowell. You can register online at 222.mvhp.org or call 978-459-8490 for more information.

SPRING 2013 TOWN MEETING WARRANT ARTICLES

Secretary David Gagliardi stated Spring 2013 Town Meeting Warrant Articles will be accepted until Monday, March 18th, 2013 prior to 4:00 PM in the Town Manager's Office.

TOWN CLERK SHIRLEY SCHULT, RE: TOWN MEETING VACANCIES

Secretary David Gagliardi stated Town Clerk Shirley Schult has asked us to read the following information. The Annual Spring Election will be April 6th, 2013 and the polls will be open from 8:00 AM until 8:00 PM. Nomination papers are available for the following offices:

Board of Selectman:	2 Openings
Planning Board:	3 Openings
School Committee:	2 Openings
Town Meeting Members:	Openings in All Eleven Precincts

Deadline for returning papers is February 19th by 5:00 PM. She urges anyone who has an interest in Town affairs to get involved. Town Meeting Members vote on the Town Budget, the By-Laws, etc. The deadline to register to vote for this Town Election is March 15th by 8:00 PM. The Registrar's Office will be open that day from 8:30 AM until 8:00 PM. If you have any questions, call the Town Clerk's Office at 978-671-0924.

MINUTES

JANUARY 28, 2013 (REGULAR SESSION)

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to accept the January 28, 2013 Regular Session Meeting Minutes as submitted.

It was voted: 5 – In Favor
 0 – Opposed

OLD BUSINESS

TOWN MANAGER REPORTS

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to accept the report that was handed out this evening.

It was voted: 5 – In Favor
 0 – Opposed

MIDDLESEX HOUSE OF CORRECTION

Town Manager John Curran stated I met with Scott Jordan of Administration and Finance and Liz Minnis from DCAM on January 31st at the State House. They informed me that DCAM will be posting the RFP in the Central Register in the next few weeks. However, this does not mean that the facility has been designed or permitted as of yet. They are using the Design-Build process with Modular Construction. The building will be designed after a firm has been chosen. While I could not get them to delay this process since no permits are sought for this stage, I did get them to incorporate community input into the specs for their design build process. I wanted the Board to know before this RFP hits the street. An actual firm will not be selected by DCAM until April 2013.

FISCAL YEAR 2014 BUDGET

Town Manager John Curran stated the budget will be presented to the Board of Selectmen on Monday, February 25th and to the Finance Committee on Tuesday, February 26th, 2013.

NGL SUPPLY WHOLESALE

Town Manager John Curran stated a notice of violation has been issued to NGL Supply at the Iron Horse Park location. They have been put on notice for failure to obtain permits and licenses and failure to comply with requirements for storage of combustible flammable liquids, solids or gases. This notice was sent on February 4th. I will keep the Board posted on the progress of this issue.

PERFORMANCE RECOGNITION

Town Manager John Curran stated George Gullage received the “James J. Courchaine Collection Systems Award” on January 30th at the Annual New England Water Environment Association Convention. This award was established in 1995 by the New England Water Environment Association and named the

BOARD OF SELECTMEN MEETING MINUTES
FEBRUARY 4, 2013

James J. Courchaine Collection Systems Award in 1996. The award is extended to a NEWEA member to recognize their outstanding efforts in the operation, maintenance, management or design of a Wastewater Collection System. This award is given annually and honors NEWEA member James J. Courchaine for his many years of dedicated service and for his many contributions to the collection systems profession both locally and nationally. George has worked for the Town of Billerica for many years and he is just an invaluable employee and I am not looking forward to his retirement because he is just a wealth of institutional knowledge and he will be greatly missed. Over the many years he has shown great dedication and has been the backbone of the Sewer Department.

BMEA NEGOTIATIONS

Town Manager John Curran stated the first contract negotiation meeting with the DPW Union took place today. Ground rules have been established and several meetings have been scheduled.

Selectman Robert Correnti, seconded by Selectman Michael Rosa, made a motion that the Board send a letter to George Gullage commending him on receiving this award.

It was voted: 5 – In Favor
 0 – Opposed

**AMUDHA SURABHI, LLC, D/B/A THE PONGAL RESTAURANT,
RE: TRANSFER OF A COMMON VICTUALLER LICENSE FROM
THE PONGAL, LLC AT 786 BOSTON ROAD**

Secretary David Gagliardi stated Mr. Amudha Surabhi, d/b/a The Pongal Restaurant located at 786 Boston Road, is seeking a transfer of a Common Victualler License from the Pongal LLC.

Attorney James Haroutunian came to the podium and stated I am here tonight representing Mr. Amudha Surabhi. We are seeking a transfer of a Common Victualler License from the Pongal LLC.

Selectman Michael Rosa stated I do have a couple of questions regarding the application. For clarification purposes, on the Common Victualler application, it says on the Board of Appeals Special Permit, it is check marked yes; that should be changed because we have a letter from the Building Department saying it is a Pre-Existing Non-Conforming Use. Also, maybe we might also like to make a note on the license that this is a Pre-Existing Non-Conforming Use, so in the future we know that there is not a need for a Zoning Board of Appeals Special Permit.

BOARD OF SELECTMEN MEETING MINUTES
FEBRUARY 4, 2013

Attorney James Haroutunian stated the operation is basically going to remain identical to the layout of the facility, the hours of operation and the food that is being served.

Selectman Robert Correnti stated it is my understanding that these new owners do not want the Alcohol License and are planning on surrendering it.

Attorney James Haroutunian stated we are planning on surrendering it and then are planning on submitting a new application for a new license just because the timeline for the transfer of the business and the paperwork involved in the license transfer could not coincide, thus there will be a shutdown on the alcohol service for a period of time.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to approve the transfer of a Common Victualler License from the Pongal LLC located at 786 Boston Road to Mr. Amudha Surabhi, d/b/a The Pongal Restaurant located at 786 Boston Road. Hours of operation will be Monday thru Friday, 11:30 AM until 2:30 PM and 5:30 PM until 10:00 PM, Saturday and Sunday, 11:30 AM until 3:00 PM and 5:30 PM until 10:00 PM.; contingent upon all Zoning Board of Appeals and Board of Health conditions and I further move the name of Karuppanan Sekar as the Manager of Record.

It was voted: 5 – In Favor
 0 – Opposed

PUBLIC HEARING

**SHIV GARNESH CORPORATION, D/B/A RICHDAL, RE:
PACKAGE STORE WINE AND MALT LICENSE AT 161 BOSTON
ROAD (ABUTTERS NOTIFIED BY CERTIFIED MAIL BY
APPLICANT)**

Selectman Robert Accomando left the Conway Hearing Room due to conflict of interest issues.

Secretary David Gagliardi stated Shiv Ganesh Corporation, d/b/a Richdale, has applied for a Package Store Wine and Malt License to be located at 161 Boston Road.

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

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

BOARD OF SELECTMEN MEETING MINUTES
FEBRUARY 4, 2013

Mr. Ramesh Patel and his Son-in-Law came to the podium and introduced themselves and stated we are here applying for a Beer and Wine License. Our business is hurting right now and we are hoping to improve our business. I am retiring from the Post Office soon, after twenty years, and I am hoping to do this.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to accept the new information provided by Police Chief Rosa.

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

Billerica Police Chief Daniel Rosa came to the podium and stated we received an application for a Section 15 Beer and Wine License from Shiv Ganesh Corporation, doing business as Richdale's Convenience. The store is located at 161 Boston Road and has been in operation for many years under the current ownership. Last week Police Lieutenant Roy Frost met with Ramesh Patel, one of the majority owners of Shiv Ganesh Corporation applying for the license. Mr. Patel stated that the business is very slow and they are looking to offer Beer and Wine as an alternative to their customers. Of note, there is currently a Subway franchise located within the Richdale's Convenience Store. Mr. Patel advised Lieutenant Frost that his company is looking into purchasing the Subway food operation as well. This store gets quite a bit of traffic and my experience with this combination of an Alcohol License or Beer and Wine License combined with Sub Shop and a Convenience Store has not been good. Other locations in Town have been troublesome spots with this type of arrangement. One example is 502 Boston Road, where we have had problems in the past. The paperwork that I gave you includes a past violation that is quite old, but I believe the question should be asked, because that store on Salem Road, that is in the package, where there were several violations at the time. You will see the memo in there from Sgt. Rosa at the time. I think the question should be asked if this organization has any relationship with that Richdale operation that owned that store at that time. Even if there is not a current relationship, I think this is a perfect example of why this license should not be issued. This again was a Convenience Store / Beer and Wine Store and we ran into very bad trouble involving minors with alcohol. I hope you take that under advisement and ask this owner what the relationship is. As of recently, other Beer and Wine Licenses that have been issued, I know there are others in Town that have been a Convenience Store, but those have been issued a long time ago. The most recent Beer and Wine Licenses that have been issued are Shop and Go in East Billerica on Salem Road and Beer, Wine and More in Pinehurst. Shop and Go is a separate store that has been petitioned down the middle. It is a separate store with a separate clerk. Beer, Wine and More in Pinehurst is right next to the Seven Eleven Store. It is just a Beer and Wine Store; it is not a Convenience Store that attracts children and families to come in. That is the reason that they have the license. There is no need in this area. There are three liquor stores within a very short distance of the proposed license, (Lincoln Liquors, Billerica Liquors and Corner Cupboard). By selling beer and wine in

BOARD OF SELECTMEN MEETING MINUTES
FEBRUARY 4, 2013

an environment that welcomes minors, it is the Police Department's belief that there is a significantly higher risk of underage sales or procurement. I hope that this Board will support me on this and not issue this license.

Very, very lengthy discussions ensued regarding Selectman Rosa's findings that there were many inconsistencies and errors in the applications submitted, the claim by Mr. Patel that there is no affiliation between the old Richdale operation and the property owner that they are now leasing from, the issue of whether or not there is a public need for another Liquor Store in this area of Billerica, grave concerns about having alcohol sold in a location that often attracts minors - such as a Convenience Store with a sub shop, the admission by Mr. Patel that he has not read the Rules and Regulation for the Town of Billerica and the fact that the Board is having great difficulty in finding an arguable balance between the public need for beer and wine versus the risk to minors regarding this request for this Package Store Wine and Malt License.

Chairman Andrew Deslaurier asked if there was anyone present who wished to speak regarding this Public Hearing. There was no one who wished to speak.

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

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

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion to grant a Package Store Wine and Malt License to Shiv Garnesh Corporation, d/b/a Richdale, located at 161 Boston Road in North Billerica. Hours of operation to be Monday thru Saturday, 6:00 AM until 9:00 PM and Sunday, 7:00 AM until 8:00 PM; pending all Board of Health review, approval and final inspection by the Fire Department.

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

NEW BUSINESS

Selectman Robert Accomando returned to the Conway Hearing Room.

OPEB POLICY

Town Manager John Curran stated the Town shall maintain an Other Post Employment Benefits (OPEB) Trust Fund. The funds shall be managed in accordance with the "Prudent Investor Rule". The Town shall strive to budget a combined minimum of four percent more than the previous year for pension and OPEB contributions. If the annual assessment for the contribution to the retirement fund increases less than four percent, the remainder of the four percent shall be budgeted as a contribution to the OPEB Trust Fund. If the annual retirement contribution exceeds four percent, then no general appropriation will be made for the OPEB Trust Fund. The Town can, however, appropriate free cash to the OPEB Trust Fund if the funds are available. This is a daunting liability for every community in Massachusetts. The outstanding liability for the Town of Billerica is \$284 million dollars over time. This is if you took into account everyone who works for the Town right now and what that liability would be over time. That is not how we pay out these benefits obviously. They are paid out on an annual basis, not all at once. That number represents us having to pay all the benefits all at once. What it brings to light is the fact that there is a tremendous liability associated with other post-employment benefits of which the major cost contribution is Health Insurance. This Trust Fund attempts to establish a fund that will help to offset that liability by investing that money and getting interest and hopefully over time that fund would act like a pension fund and we would be able to fund annual appropriations for OPEB liabilities, not out of our Operating Budget but out of the interest from the Trust Fund. This is much like how a Pension Fund works. The Pension Fund for most employees is fully funded. It is just those employees before 1988 and the Town is trying to bring them up to a fully funded point and that is scheduled to be done by 2031. This is being mandated by GASB Order 45 and I think most communities are doing the same thing that we are. We hope to establish more permanent funding mechanisms in the future, but this is a start. Every year we have an annual appropriation for our Pension Fund, and that number usually goes up every year. This year it is going up about \$130,000, which is less than a four percent increase. So what we are doing is establishing a commitment of four percent to our OPEB and our pension contributions in any combination, but it will be driven by the Pension Fund. So if the Pension is four percent or greater, then there won't be any contribution to OPEB that year. But if it is less than four percent, then the balance of that would be contributed to our OPEB Trust Fund. That forces us to contribute to that Trust Fund on a consistent basis. We could also do that through Free Cash if you wanted to in the future and eventually when the Pension Fund is fully funded, I would expect that the Town would transfer a lot of that allocation into funding the OPEB Trust. Also, I believe there will be action by the State of Massachusetts in the near future to help these cities and towns with these costs. This is an action to establish a Trust Fund to help offset the liability for Other Post Employment Benefits and it in no way changes any of the benefits that are being provided to employees at this time. This is the first reading and I am asking that the Board take this matter up again for a vote at your next meeting.

STATEMENT OF INTEREST: BILLERICA MEMORIAL HIGH SCHOOL

School Superintendent Tim Piwowar came to the podium and gave a very informative slide show presentation regarding Statement of Interest for the Billerica Memorial High School Project. This slide show presentation is on file in the Selectmen's Office.

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board approve the Statement of Interest for the Billerica Memorial High School under the terms of the following motion approved by the MSBA:

REQUIRED FORM OF VOTE TO SUBMIT A STATEMENT OF INTEREST

FORM OF VOTE required from both the City Council/Board of Aldermen **OR** the Board of Selectmen/equivalent governing body **AND** the School Committee. If a regional school district, only a vote of the Regional School Committee is required.

Please use the text below:

Resolved: Having convened in an open meeting on February 4, 2013, the Board of Selectmen of Billerica, in accordance with its charter, by-laws, and ordinances, has voted to authorize the Superintendent to submit to the Massachusetts School Building Authority the Statement of Interest Form dated February 5, 2013 for the Billerica Memorial High School located at 35 River Street, Billerica, Massachusetts which describes and explains the following deficiencies and the priority category(s) for which an application may be submitted to the Massachusetts School Building Authority in the future _____

Priority #1: Replacement or renovation of a building which is structurally unsound or otherwise in a condition seriously jeopardizing the health and safety of school children, where no alternative exists. The school has an antiquated HVAC system, water and moisture infiltration, out-of-date and non-compliant electrical and life safety systems, and non-potable water.

Priority #3: Prevention of the loss of accreditation. Concerns with the physical plant of the high school were raised in the last NEASC visiting team report in 2002 and an accreditation visit is scheduled for Fall 2013.

Priority #5: Replacement, renovation, or modernization of school facility systems, such as roofs, windows, boilers, heating and ventilation systems, to increase energy conservation and decrease energy related costs in a school facility. Due to both the excessive size of the existing high school and antiquated building systems, the high school is not operating in an energy efficient environment.

BOARD OF SELECTMEN MEETING MINUTES
FEBRUARY 4, 2013

Priority #7: Replacement of or addition to obsolete buildings in order to provide for a full range of programs consistent with state and approved local requirements. The existing building does not have appropriate science laboratory spaces, adequate electrical infrastructure to support needed instructional technology, classrooms of appropriate size and design, or appropriate classrooms to support vocational and project-based educational opportunities for students.

and hereby further specifically acknowledges that by submitting this Statement of Interest Form, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the Town to filing an application for funding with the Massachusetts School Building Authority.

It was voted: 5 – In Favor
 0 – Opposed

Selectman Michael Rosa stated if you went with the scenario that you are going to build a new High School on the Locke site and then build a new Locke on the High School site, well what we are applying for is High School repair replacement, well if we did that scenario, and I am not advocating for it because I think we would have a lot of traffic issues over there, the question comes would we do a separate application for then doing the Locke school on the other site.

School Superintendent Tim Piwowar stated this is just for the High School Project. Per the MSBA, we can only do one project at a time. In terms of moving Locke students into the existing new addition of the High School, that is something that will necessarily require an MSBA Project. There are far fewer Locke students than High School students. We can make the High School work for the Locke students. In terms of the initial phase, it would not necessarily be a heavy lift. The possibility of building a new Locke after that would mean the submission of a new SOI and starting the process all over again.

BOARD OF SELECTMEN MEETING MINUTES
FEBRUARY 4, 2013

MEETING SCHEDULE

February 25, 2013
March 4 and 18, 2013

Selectman David Gagliardi, seconded by Selectman Michael Rosa, made a motion that the Board adjourn at 8:32 PM.

It was voted: 5 – In Favor
 0 – Opposed

A TRUE COPY ATTEST

Susan Michelini, Recording Secretary