

MEETING MINUTES
FOR APRIL 22, 2013

A regular meeting of the Board of Selectmen was held on Monday, April 22, 2013 in the Conway Hearing Room at 7:00 p.m. Present were Selectman David Gagliardi, Chairman, Selectman Robert Accomando, Vice Chairman, Selectman Michael Rosa, Secretary, Selectman Andrew Deslaurier, Member, Selectman George Simolaris, Member, Town Manager John Curran, and Assistant Town Manager Cathleen O'Dea.

CALL TO ORDER

Chairman David Gagliardi stated that on behalf of the Board of Selectmen and Administration he would like to offer their condolences to the victims of the Marathon Monday bombing.

Chairman Gagliardi expressed his gratitude to all first responders and particularly recognized members of the Billerica Police Department. He recognized Sergeant Mark Gualtieri and Officer Stephen Cogswell who were assigned to the NEMLAC Unit and Officer Mark Tsoukalas and Officer John Harring of the Canine Unit for their role in the apprehension of the suspect.

Chairman Gagliardi then asked for a moment of silence for all the victims of the bombing.

Chairman Gagliardi publicly thanked the Board of Selectmen for electing him Chairman. He stated he would take this role very seriously and conduct himself in such way to earn the trust that the Board has put in him. Chairman Gagliardi also took the opportunity to welcome Selectman George Simolaris to the Board and wished him well. Chairman Gagliardi stated that he would assist Selectman Simolaris in bringing him up to speed on the issues facing Billerica so that he can be successful. Chairman Gagliardi said that the success of the Board as a whole depends on all of its members.

Chairman Gagliardi then thanked former Selectman Robert Correnti for his 12 years of service on the Board of Selectmen.

Chairman Gagliardi stated that over the next year he would like to challenge the Board to attain certain goals. First and foremost he would like to see the Board conduct themselves so that the people they are sworn to serve will gain the most from the Board's efforts. In order to do that Chairman Gagliardi said he will require Board members, members of the audience and all speakers at Open Mike to treat everyone with respect, keeping in mind that we are all trying to achieve the same things, positioning Billerica for success in the future. "While everyone may not agree on how to move the community forward, we can all agree that the need to get there has to take precedence over all personal agendas or political opinions." Chairman Gagliardi stated that he will challenge the Board of Selectmen to make this a reality. "The Community faces many challenges in the next few years. We will be looking at building a new High School, continuing sewer expansion, addressing infrastructure issues such as roads, public buildings, as well as the best way to finance these projects." He hopes that a new spirit of cooperation, compromise and mutual respect can be born from the divisiveness of the recent past and he encouraged his colleagues to tonight begin the process of making it happen.

OPEN MICROPHONE

Ms. Marlise Henderson, 31 Sprague Street, came to the podium and spoke about the Bay Circuit Alliance and the Yankee Doodle Bike Path Committee.

Mr. Saul Santana, 23 Floyd Street came to the podium and expressed his opinions on the Waste Management Facility proposed for Salem Road.

Town Manager John Curran suggested to Mr. Santana that the Planning Board was the appropriate Board to raise his concerns.

Mr. Robert Casey, 15 Blanchard Avenue came to the podium and expressed his opinions on the proposed Waste Management Facility on Salem Road. Mr. Casey stated that he wrote an e-mail to Town Manager John Curran regarding a project before the Planning Board. He asked that it be in the record.

"I am still hoping that your administration is going to create development policies that make sense for the long term prosperity of this community. Right now I see a scorched earth approach to development. If it generates a dollar today, it's a go. The long term effects of this lack of coherent development continues up to today. The long term effects of this lack of coherent development continues to diminish the Town's image. Whether it is a cell tower, a box store, a power plant, an auto auction, a 40 B on Rangeway Road or a for profit Day Care Center in a dangerous traffic location."

The Policies and procedures of the Board of Selectmen allow for 3 minutes at open mike. Chairman Gagliardi advised Mr. Casey he had 30 seconds left. Mr. Casey's time at open mike expired in accordance with the BOS Policies and Procedures. Mr. Casey was escorted from the room for ignoring Chairman Gagliardi after he gave him 3 warnings that his time had expired.

Town Manager John Curran stated that his office has initiated a warrant article for review of the Master Plan. It is a \$50,000 warrant article. Mr. Curran stated he would be happy to work with Planning Board. He further stated that Zoning is an important issue, but it the responsibility of the Planning Board.

David Johnson, 113 Gray Street came to the podium and expressed his opinion on the proposed Waste Management Plant on Salem Road.

Selectmen George Simolaris stated that he too is opposed to this project. He has done research on it with DEP. He was told that 250,000 tons of recyclables is allowed and can take extra cardboard and paper beyond the 250,000 tons. Selectman Simolaris inquired if this use is zoned as light manufacturing and could it be changed?

Town Manager John Curran stated that this was actually contested by the previous owners of Empire Recycling in court. It was contested on the grounds that it was defined as light manufacturing and it was held up in court. It has been classified as light manufacturing both by Empire Recycling, which is both in a residential and commercial zone. Because it is in a residential zone, it was subject to Planning Board review. The plant on Cook Street was not because it is in Commercial zone and it is a By-Right use. In terms of zoning, this is defined as light manufacturing. Mr. Curran further stated that in his opinion it is not the best use for that area. He further stated that that the law allows it as a By Right use. Mr. Curran stated that what needs to be done is to look at it from a planning perspective and change the zoning so that future uses of this type will go through a more stringent process. Mr. Curran suggested that people lobby the Board of Selectmen and the Planning Board for future changes.

George Simolaris, 476 Boston Road came to the podium and expressed his opinion on having a sidewalk between the Post Office and the Billerica Mall.

Michael Parker, 67 Salem Road came to the podium and expressed his opinion on the proposed Waste Management facility on Salem Road.

ANNOUNCEMENTS

VACANCIES ON BOARDS AND COMMITTEES

Secretary Michael Rosa stated the Board of Selectmen is 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 District Commission	4(alternates)
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.

COUNCIL ON AGING ACTIVITIES

Secretary Michael Rosa stated the Billerica Senior Center is located at 25 Concord Road and their hours 8:30 a.m. until 4:00 p.m., Monday thru Friday. They have many activities and programs scheduled and for more information on these activities, call 978-671-0916 or go to their website www.billericacoa.org.

MERRIMACK VALLEY LEAD PAINT REMOVAL PROGRAM

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

TOWN OF BILLERICA MERCURY RECOVERY PROGRAM

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

DPW WATER CONSERVATION REBATE PROGRAM

Secretary Michael Rosa 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 rebate. Go to www.billericadpw.org or contact the DPW Director's office for list of qualifying models. Qualifying toilet rebates are \$100.00. Qualifying urinal rebates are \$25. Qualifying clothes washer rebates are \$225.00. All rebates are \$100. 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 within 90 days of purchase.

SUNSHINE GALS KITCHEN-MEALS PREPARED AND SERVED FOR NEEDY FAMILIES LIVING BILLERICA

Secretary Michael Rosa stated the Sunshine Gal's Kitchen prepares and serves meals on the fourth Saturday of each month between 12:00 Noon and 1:30 p.m. 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

Secretary Michael Rosa 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 Michael Rosa 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.mvhop.org or call 978-459-8490.

FIGHT FOR EDUCATION

Secretary Michael Rosa stated the Billerica partner's for Education is holding their 16th Annual Fundraiser "Fight for Education" on Friday, April 26, 2013 from 7:00 p.m. until 10:30 p.m. at the Billerica Lodge of Elks located at 14 Webb Brook Road. This is an Amateur Boxing Show featuring ten bouts of the Golden Glove Champions. There will be a buffet dinner, raffles and silent auction. The raffles will have a grand prize of \$1,000 or a trip to Las Vegas. Tickets are \$50.00. For more information and tickets call 978-528-7908.

JOIN THE "READ 13 IN '13" READING CHALLENGE

Secretary Michael Rosa stated the Billerica Public Library is presenting an exciting new reading challenge for adults called "Read 13 in '13. You can join anytime. Just go to the Circulation Desk at the Library or log onto their "13 in '13" registration page at www.billericalibrary.org. For more information visit their website at www.billericalibrary.org or call them at 978-671-0948.

BILLERICA SPRING TOWN MEETING

Secretary Michael Rosa stated Spring 2013 Town Meeting begins on Tuesday, May 7, 2013 at 7:30 p.m. in the Billerica Town Hall.

BILLERICA TWINNING GROUP, JUNE 2, 2013, "AN ENGLISH TEA" EVENT

Secretary Michael Rosa stated that the Billerica Twinning Group is having "An English Tea" sponsored in part through the Billerica Community Grants.

TOWN MEETING

Secretary Michael Rosa stated that the Spring 2013 Town Meeting will begin on May 7, 2013

PUBLIC HEARINGS

NATIONAL GRID RE: INSTALL TWO RUNS OF CONDUIT, APPROXIMATELY 300' EACH FROM CONCORD ROAD POLE DOWN TECHNOLOGY PARK DRIVE AS NOTED ON PLAN #13757923 (ABUTTERS NOTIFIED BY THE TOWN.)

Selectmen Michael Rosa , seconded by Selectman Andrew Deslaurier, made a motion to open the Public Hearing for National Grid to install two runs of conduits approximately 300 feet each for Concord Road poles down Technology Park Drive as shown on the plan.

It was voted: 5- In Favor
 0 – Opposed

David Boucher, Senior Design Technician for National Grid Electric, 1101 Turnpike Street, North Andover, MA came to the podium and stated National Grid would like to install two runs of conduit, approximately 300' each, from Concord Road poles down Technology Park Drive as noted on Plan #13757923

Chairman David Gagliardi asked the Board if there were any questions or comments.

Secretary Michael Rosa asked if there were any question or concerns from the abutters.

Mr. Boucher responded that he knew of none.

Selectman Michael Rosa, seconded by Selectmen Andrew Deslaurier made a motion to close the Public Hearing.

It was voted: 5-In favor
 0-Opposed

Selectman Michael Rosa, seconded by Selectmen Andrew Deslaurier made a motion that the Billerica Board of Selectmen grant permission to National Grid to install two runs of conduit approximately 300 feet each from Concord Road poles down to Technology Park Drive as noted on Plan 13757923.

It was voted: 5-In favor
 0-Opposed

NATIONAL GRID/VERIZON RE: INSTALL NEW POLE 30-50 BETWEEN EXISTING POLE 30 AND POLE 31 IN SUPPORT OF THE ARAKELIAN FARMS DEVELOPMENT PROJECT. THE LOCATION BEGINS AT A POINT APPROXIMATELY 40' NORTH OF THE CENTER LINE OF THE INTERSECTION OF OLD RANGEWAY ROAD AND CONTUING APPROXIMATELY 20' IN A NORTH DIRECTION. PLAN #14048511

Selectman Michael Rosa, seconded by Selectman Andrew Deslaurier, made a motion to open the Public Hearing for National Grid/Verizon to install new Pole 30-50 between existing pole 30 and 31 in support of the Arakelian development project as shown on the Plan #14048511.

It was voted: 5 – In Favor
 0 – Opposed

David Boucher from National Grid Electric appeared again and stated that they are asking for a new pole to be placed on Rangeway Road 30-50 which would become the new reserve pole for the electric and all other utilities for the new project at Arakleian Farms.

Chairman David Gagliardi asked if there were any questions or comments.

Secretary Michael Rosa if there were any abutter concerns.

Mr. Boucher responded that there were none.

Chairman David Gagliardi asked if there were any further questions from the Board. Chairman Gagliardi then asked if there was anyone in attendance who wished to speak.

Selectman Michael Rosa, seconded by Selectman Andrew Deslaurier made a motion to close the public hearing.

It was voted: 5 – In Favor
 0 – Opposed

Selectman Michael Rosa, seconded by Selectman Andrew Deslaurier made a motion that the Board of Selectman grant permission to National Grid to install a new pole 30-50 between existing poles 30 and 31 in support of Arakelian Farms development project at a location approximately 40' north of the center line of the intersection of Old Rangeway Road and continuing approximately in a north direction consistent with Plan #14048511

It was voted 5 – In Favor
 0 – Opposed

AMUDHA SURABBI, LLC D/B/A PONGAL RESTAURANT, RE: RESTAURANT ALL ALCOHOLIC LICENSE FOR PREMISES LOCATED AT 786 BOSTON ROAD (ABUTTERS NOTIFIED B Y APPLICANT)

Secretary Michael Rosa stated there is another Public Hearing for Amudha Surabbi LLC, d/b/a Pongal Restaurant.

Selectman Robert Accomando recused himself and left the room.

Selectman Michael Rosa, seconded by Selectman Andrew Deslaurier made a motion to accept the new information, a revised version of the Commonwealth of Massachusetts forms for this liquor license which amends the managers of record.

It was voted 4 – In favor
 0 – Opposed
 1 – Abstention (Selectman Accomando)

Selectman Michael Rosa, seconded by Selectman Andrew Deslaurier, made a motion to open the Public Hearing Re: Amudha Surabbi, LLC d/b/a Pongal Restaurant, Re: Restaurant All Alcoholic License for premises located at 786 Boston.

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

Attorney James Haroutunian appeared before the Board with both principal managers of the Amudha Surabbi LLC Restaurant Group.

Attorney Hartounian reported during its ownership of the Pongal Restaurant it was run by another individual Kalair. This individual sold the restaurant to the two individuals present and they took over ownership a few months ago. Rather than waiting for the liquor license transfer, they shut down the alcohol service. They are now presenting this application to the Board.

Attorney Haroutunian stated that Kalair, the former owner has contracted to a two year period to be the General Manager of the restaurant.

Attorney Haroutunian introduced Karuppanan Sekar as the principal applicant. He is a Billerica resident and has a good standing in the Community and was available for questions.

Selectman Andrew Deslaurier asked if the applicants had read the by-laws.

Attorney Haroutunian stated that was correct.

Selectman George Simolaris stated that he felt as long as they had complied with the rules and regulations all of these year, there was no reason they wouldn't in the future.

Secretary Michael Rosa stated that he had no questions. He further stated that Attorney Haroutunian had provided the document that was needed to complete the package.

Chairman David Gagliardi asked if anyone from the Public wished to speak.

Selectman Michael Rosa, seconded by Selectman Andrew Deslaurier made a motion to close the public hearing.

It was voted: 4 – In favor
 0 – Opposed
 1 – Abstention (Selectman Accomando)

Selectman Michael Rosa, seconded by Selectman Andrew Deslaurier made a motion to grant a liquor license to Amudha Surabbi, LLC, d/b/a Pongal Restaurant, 786 Boston Road, hours of Operation to be weekdays 11:30 a.m.-2:30 p.m. and then 5:30 p.m.-10:00 p.m., Saturday 11:30 a.m. – 3:00 p.m., and then 5:30 p.m.- 10:00 p.m., Sunday, 11:30 a.m.-3:00 p.m. and then again 5:30 p.m.-10:00 p.m.

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

RESTAURANTS TECHNOLOGIES, INC. RE: STORAGE OF 44,750 GALLONS OF FRESH COOKING OIL AND 10,000 GALLONS OF WASTE COOKING OIL AT PREMISES LOCATED AT 16 ESQUIRE ROAD (ABUTTERS NOTIFIED BY APPLICANT)

Selectman Robert Accomando returned to the room.

Selectman Michael Rosa, seconded by Selectman Andrew Deslaurier, made a motion to open the Public Hearing for Restaurants Technologies, Inc. re: Storage of 44,750 gallons of fresh cooking oil and 10,000 gallons of waste cooking oil at premises located at 16 Esquire Road.

It was voted: 5 – In Favor
 0 – Opposed

Deputy Fire Chief Tom Ferraro came to the podium and stated that the proponents are requesting the Board to amend the license from 54,000 gallons to 64,000 gallons of Class III combustible fluids.

Scott Fohberg from Wakefield Industries came to the podium and made request to amend the application. He said they were not aware that one of the other tenants had a permit, but not a large amount of materials. That along with the other truck, that has about 4,000 to 6,000 gallons, they feel that the 64,000, would cover everything and that is what they are requesting.

Chairman David Gagliardi asked Deputy Fire Chief Tom Ferraro if he approved.

Deputy Chief Ferraro said he did approve.

Secretary Michael Rosa asked Deputy Chief Ferraro that on the original application it was asking for 44,750 gallons of fresh oil and 10,000 gallons of waste oil for a total of 54,750 gallons on site. The total is now going up to 64,000. Selectman Rosa asked what the breakdown was.

Deputy Chief Ferraro responded that it should read 64,000 gallons of Class IIIB combustible liquids.

Secretary Rosa asked if they needed to break down the waste oil.

Deputy Chief Ferraro responded that they didn't.

Secretary Rosa then asked if they were amending it to another license on premises.

Deputy Chief Ferraro stated that it is a multi tenant building. A company called Sea Horse Bio Science is there. They have a chemical storage license through the Fire Department. They do not have the triggering mechanism to get a license. However, they do have Class III combustible liquids in their facility. It is about 100-200 gallons, but it is still a Class III combustible liquid and needs to be added because the license goes with the parcel.

Secretary Michael Rosa then asked the Deputy Chief if all he cared about that it was classified as a Class III B combustible.

Deputy Chief Ferraro responded that that was correct. The simple breakdown is when they do their yearly permitting and then they can get the breakdown and chemical inventory at that time.

Secretary Michael Rosa asked Deputy Chief Ferraro if he was comfortable with that.

Deputy Chief Ferraro responded that he was.

Chairman David Gagliardi asked if there were any further questions from the Board. He then asked if there were any questions from the public.

Selectman Michael Rosa, seconded by Selectman Robert Accomando made a motion to close the public hearing.

It was voted: 5 – In Favor
 0 – Opposed

Selectman Michael Rosa, seconded by Selectman Andrew Deslaurier made a motion that the Billerica Board of Selectman grant a fuel storage license to Wakefield Technologies, Inc., P.O. Box 540, Wakefield, MA doing business at 16 Esquire Road in Billerica, MA, hours of operation will be weekdays, 7:00a.m.- 5:00 p.m. for a storage license of 64,000 gallons of Class III B combustible fluids contingent upon the facility must comply with the following: M.G.L. 148-527 CMR Massachusetts State Building Code, all applicable MFPA Codes. Annually the property owner shall retain a Massachusetts Registered Professional Engineer to determine compliance with the Massachusetts State Fire Codes, the Massachusetts State Building Codes, and Town of Billerica permit and license restrictions. The report shall be submitted one month prior to the expiration of any Fire Department permit.

It was voted: 5 – In Favor
 0 – Opposed

BOARD OF SELECTMEN POLICIES AND PROCEDURES – DISCUSSION AND POSSIBLE RESCINDING OF TWO POLICIES (DISSEMINATION OF INFORMATION AND CONDUCT OF MEMBERS OF THE BOARD)

Selectman George Simolaris stated that he put this on the Agenda because there were policies recently adopted he believes undermines and takes away from the Electoral and Democratic process.

Selectmen George Simolaris then read the Policy on Dissemination of Information.

Dissemination of Information

It shall be a policy of the Board to control the dissemination of information to Board members in the following manner:

- 1) All new information intended for inclusion in or discussion on any agenda item shall be provided to the members of the Board in advance of a meeting in what is known as “The Package”.
- 2) The inclusion of any new information for discussion on any agenda item not included in “The Package” shall require a majority vote of the Board prior to the inclusion or discussion of such information occurs.
- 3) Any new information intended for inclusion in or discussion on any agenda item provided to member(s) by the Administration or by any other means, including agenda addenda and any information contained therein, shall require a majority vote of the Board prior to the inclusion or discussion of such information occurs.

Selectman Simolaris stated that this policy could inhibit a Selectman from speaking and he would like to strike this policy and procedure.

Chairman David Gagliardi then began the discussion. Chairman Gagliardi stated that it was he who submitted this policy. He stated that it was not his intention to inhibit anyone from speaking or sharing information. The intention was to make sure information was carefully reviewed and vetted prior to a meeting. The Board needs to know where the information comes from, who wrote it, etc. This policy gives Board members the opportunity to do that. The policy allows Board members to vet any information that was not provided to them prior to the meeting.

Selectman Andrew Deslaurier stated that he had previously not supported this article. He stated that the practice of the policy had not been terribly consistent. He has been somewhat ambivalent about it because the Selectman’s package has been on the “other side of the rail” as opposed to new material on the Selectmen’s desk which is not readily available to the public at the meeting. Selectmen Deslaurier

stated further that the reason he did not support this previously was because he was afraid that there would be a change in the composition of the Board, not necessarily the sitting Board that would be vindictive enough to control someone's material being distributed. He has a concern about the distribution of material. He would wait for the opinions of his colleagues.

Selectman Robert Accomando stated he supported this policy and thinks that it works well. Selectman Accomando feels that it forces people that have new information to arrive at the meeting early enough to make sure everyone has the information and research it if necessary. He doesn't want to make a decision in 15 minutes that is going to affect the Town.

Secretary Michael Rosa stated that he voted against the policy originally. If someone has information, let them bring it forward and the Board can give it as much weight as they wish. If it is an issue that requires more discussion or review, it can be put on the next Agenda. Selectman Rosa stated that he was not sure if Selectman Simolaris made a motion to rescind the policy or not; if he did, Selectman Rosa would support rescinding the policy.

Chairman Gagliardi referenced an item that was given to him before tonight's meeting. Without the policy any member of the Board could put this through and it becomes a matter of public record. Chairman Gagliardi said that he had done a fair amount of research and work on what was contained in the item and found most of it to be wrong. Without the opportunity to vet the information contained on paper, the Board would be making a decision based on faulty information. Chairman Gagliardi stated that that was why the policy was adopted. It has not hindered anyone from free speech since it has been a policy.

Secretary Michael Rosa stated that they were not talking about information from the general public; they were talking about information from other Board members. Selectman Rosa did not think the example the Chairman referenced was a fair depiction of the policy. He further stated that if a Board member comes up with information that they feel strongly enough to bring to a public meeting in front of BATV, they should be allowed to present that information.

Selectman George Simolaris, seconded by Selectman Michael Rosa made a motion to Rescind the Dissemination of Information Policy from the Board of Selectmen's Policies and Procedures.

It was voted: 3 – In Favor
 2 – Opposed

The policy was rescinded.

Selectman George Simolaris read the Policy of the Conduct of Members of the Board of Selectmen.

In accordance with Section 3-2 of the Billerica Home Rule Charter, which states in pertinent part, "that no individual member of the Board of Selectmen, nor a majority of them shall at any time, attempt to

become involved with the day-to-day administration of the Town” , the following amendment to the Board of Selectman Policies and Procedures is proposed.

Conduct of Members of the Board

In accordance with Section 3-2 of the Billerica Home Rule Charter, it shall be the policy of the Board that;

- 1) No member shall attempt to persuade or in any way interfere with the authority of any Department Head or subordinate, whether elected or appointed while they are in the lawful execution of the day to day administration of their duties as described in the charter or by-laws.
- 2) If any Board member is alleged to be in violation of this policy and a majority of the Board, voting in executive session (to the extent permissible by law), finds the allegation to be credible, the Board shall instruct Town Counsel to investigate such allegation and report his finding to the Board for final disposition.
- 3) If the Board, voting in executive session (to the extent permissible by law) finds by majority vote that sufficient evidence exists to establish that a violation has occurred, the Board shall censure such member(s) at the next scheduled meeting.
- 4) The official censure shall be: That the offending member(s) shall be made to stand and face the Board and a reading of the findings surrounding the violation and an official rebuke of such member(s) shall be imposed.

Selectman Simolaris stated that the policy basically says that a Selectman cannot persuade a Town Employee either elected or appointed to do something. If the Selectman is found to be in violation and the Board of Selectman find it credible, they can, by majority, vote to censure him. The offending member is made to stand and face the Board and a reading of the findings about the violation is done and an official rebuke is imposed. Selectman Simolaris stated that there is a provision in Executive Session for this. Selectman Simorlais further stated that he did not think it was necessary to have a Policy/Procedure for censure. Selectman Simolaris stated that he thinks this policy should be abolished. If the voters do not like what an elected official does, they don't have to re-elect him.

Chairman Gagliardi stated that the reason the policy was put in place was not to hinder anything but to put consequences in place that would prevent people from getting involved in the day-to-day administration of the Town, which by Charter and Law the Board is prohibited from doing. The Board takes an oath to uphold the charter and it would be a violation of their oath.

Selectman Andrew Deslaurier with permission of the Chairman asked Town Counsel Patrick Costello if censure is available with or without any sort of provisions in the Charter.

Attorney Costello answered that within the context of this particular policy that it is a mechanism available to any Board or Commission to have the right to adopt any rules or regulations to govern its proceeding, including censuring a member for violating practices and procedures whether they are

established in the charter or by-laws. The regulation did call for a vote in Executive Session which is in accordance with the provision of the Open Meeting Law since it does involve a complaint against a municipal employee which the Board of Selectmen are. It would be done in Executive Session with the rights pertinent to the individual to have counsel present.

Selectman Andrew Deslaurier asked Attorney Costello that if this policy did not exist would the Board still have the right to censure an individual.

Attorney Costello responded that he did not think it was illegal or improper for a Chairman of a Board in Executive Session to call for a censure or a reprimand of another member of a Board for what he/she deems to be inappropriate conduct. He did not think it would have to be specifically authorized by statute, as it falls within the general authority to regulate its own affairs and members.

Town Counsel further stated that you can always do things in open session anytime you want. The action against an employee in Executive Session provision is basically in the statute to protect the employee.

Selectman Andrew Deslaurier stated that his specific objection is the focusing of censure on one particular violation of the charter where we should be focusing on all violations of the Charter.

Selectman Robert Accomando stated he did not have problem with the policy.

Secretary Michael Rosa asked permission from the Chairman to have Town Counsel address the Board. He asked Counsel that regarding censure under self regulation would they have the right to do it without the policy in place.

Attorney Costello responded that he believed there was an inherent right to do so.

Secretary Rosa further inquired if it was limited to just that section of the Charter or did it expand through the entire Charter.

Attorney Costello responded the he thought any inappropriate or improper behavior by a Board member would warrant a censure.

Secretary Michael Rosa asked Town Counsel Patrick Costello who appointed him.

Attorney Costello responded that the Board of Selectmen did.

Secretary Rosa had a concern with someone who is appointed by the Board investigating and making recommendations about censuring a member of the Board. He doesn't feel it is fair if the majority of the Board wants to censure the minority of the Board.

Secretary Rosa further stated that if there was a motion to rescind this policy, he would support it. He feels that it would pit member against member and cause people to be put in a position that they do not want to want to be in. Without this policy they have the ability to censure anyway.

Chairman David Gagliardi asked Attorney Costello if he was saying that without this policy 3 Selectmen could vote to censure any of the others.

Attorney Costello stated that without any written policy any move to censure a member would have to involve very extreme conduct because you would not want to be doing this continually.

Chairman Gagliardi asked Town Counsel if this policy as it is written takes steps that make it more difficult to censure. Chairman Gagliardi said there a number of steps to go through before we get to censure. After all allegations are in, then the Board decides to have Town Counsel investigate.

Chairman Gagliardi asked Town Counsel if his role was just to investigate and report on what you learn.

Attorney Costello responded that the Chairman was correct and he does not make any determinations.

Chairman Gagliardi stated that it was then up to the Board to take that information and make a determination whether a violation occurred and whether or not to censure.

Attorney Costello stated it would require a majority vote of the Board of Selectmen.

Kathy Matos, 10 Whittier Road, came to the podium and expressed her views on the policies and procedures in question.

Kevin Conway, 21 Mason AV, came to the podium and expressed his views on the policies and procedures in question.

Selectman George Simolaris, seconded by Selectman Michael Rosa made a motion to rescind the Conduct of Members of the Board policy of the Board of Selectmen Policies and Procedures

It was voted: 3 – In Favor
 2 – Opposed

The policy was rescinded.

OLD BUSINESS

TOWN MANAGER REPORTS

Town Manager John Curran read into the record a letter from Sergeant Mark Gualtieri regarding Officers Stephen Cogswell, Mark Tsoukalas, and John Harring recognizing their efforts in lending assistance to the City of Boston after the Marathon Monday terrorist bombing. Mr. Curran further stated that the

officers were intimately involved in the apprehension of the second bombing suspect. He asked that these letters be placed on file and in their personnel files.

The letters read as follows:

On Monday, April 15, 2013 the City of Boston suffered an unprecedented terrorist attack near the finish line of the Boston Marathon. The Boston Police Department reached out to any municipal, state, or federal law enforcement agency for assistance. The North Eastern Massachusetts Law Enforcement Council responded by making all resources available upon the request of the City of Boston. Members of the Billerica Police Department who are assigned to NEMLEC units, including Officer Stephen Cogswell who is assigned to the NEMLEC SWAT Team and Officers John Haring and Mark Tsoukalas who are assigned to the NEMLEC K-9 Unit, immediately responded to Boston. Over the course of the next four days and at great personal sacrifice, these officers worked around the clock in the City of Boston to ensure the safety of the citizens of the Commonwealth of Massachusetts.

On the night of Thursday, April 18, 2013 the terrorists who bombed the City of Boston and killed MIT Police Officer Sean Collier were pursued into the City of Watertown where a violent gun battle occurred resulting in the critical injury of Transit Police Officer Richard Donohue and the death of one of the two terrorists. Officer Cogswell, Haring, and Tsoukalas immediately responded to the City of Watertown and took part in one of the largest manhunts in the history of the Commonwealth of Massachusetts, taking an active role in the search for and capture of the second terrorists.

Officer Stephen Cogswell, Officer John Haring, and Officer Mark Tsoukalas performed above and beyond the call of duty throughout the incident by putting themselves in harm's way on countless occasions and are a credit to the Billerica Police Department and the Town of Billerica.

Selectman Michael Rosa, seconded by Selectman Andrew Deslaurier made a motion that the Board of Selectman put these letters in the Officers' personnel files and a letter of thanks go out from the Board.

It was voted: 5 – In Favor
 0 – Opposed

NEW BUSINESS

BILLERICA CAT CARE COALITION RE: REQUESTING TO PLACE THREE (3) SIGNS IN THE TOWN CENTER TO PROMOTE THE CAT'S MEOW CHOCOLATE TASTING AND SILENT AUCTION ON FRIDAY, JUNE 14, 2013 AT THE TEWKSBURY COUNTRY CLUB FROM 7:00 P.M. – 9:30 PM.

Sharon Dubois of the Billerica Cat Care Coalition appeared before the Board to request permission from the Board to place three (3) signs in the Town Center to promote their event.

Selectman Michael Rosa, seconded by Selectman Andrew Deslaurier made a motion to grant permission for the Billerica Cat Care Coalition to put four (4) 2 x 2 signs on the Town Common from May 31st- June 14, 2013.

It was voted: 5 – In Favor
 0 – Opposed

STAGE I WATER BAN

DPW Director Abdul Alkhatib appeared before the Board to request a seasonal restriction on water use from May 1st through October 1st as mandated by MA DEP and outlined in Article 8, Section 6 of the General By-Laws stating the Town’s withdrawal permit requires the Town to adopt such a policy.

Mr. Alkhatib stated that there is an option offered by the DEP to do a 7 day non-use between the hours 9:00 am – 5:00 p.m. If the Town chooses to use the By-Law (Stage I) it will only allow residents to water two days a week between the hours 9:00 a.m. and 5:00 p.m. Mr. Alkhatib stated that the two days will be at his discretion.

Chairman David Gagliardi took the opportunity to remind the public about the Water Conservation Program and the Water Conservation Kit. Mr. Alkhatib explained the program to those in the audience.

A discussion between the Selectmen ensued regarding which stage to adopt and how to advertise it to the public.

Selectman Michael Rosa, seconded by Selectman Andrew Deslaurier made a motion that the Billerica Board of Selectman vote the DEP permit mandates which will limit watering for non-essential out- door use for 7 days per week between the hours of 9:00 a.m. – 5:00 p.m., from May 1 through October 1, 2013.

It was voted: 5 – In Favor
 0 - Opposed

ANTONELALEKS 12, INC. D/B/A AL’S PIZZA RE: TRANSFER OF A COMMON VICTUALER LICENSE FROM MAMA MIA’S PIZZERIA AT 326 SALEM ROAD.

Anthony Rocco appeared before the Board of Selectmen to request a transfer of a Common Victualler License to AntonelaAleks 12, Inc. d/b/a Al’s Pizza from Mama Mia’s Pizzeria at 326 Boston Road.

Chairman David Gagliardi asked if this was a transfer of a license.

Mr. Rocco responded that it was.

Secretary Michael Rosa asked Mr. Rocco if he was aware of the ZBA conditions on his permit.

TOWN'S RIGHT OF FIRST REFUSAL, CHAPTER 40B PROJECT, BARRETT FARMS, 41 BOSTON ROAD, UNIT 122

Town Manager John Curran stated that because this is an affordable unit, the Town has a right of first refusal. They have a letter from the Billerica Housing Authority stating that they voted not to exercise their rights

Selectman Michael Rosa, seconded by Selectman Andrew Deslaurier made a motion that the Billerica Board of Selectman give up their right of first refusal of Barrett Farm, 41 Boston Road, Unit 122.

It was voted: 5 – In Favor
 0 – Opposed

PROCLAMATION CANCER AWARENESS DAY JUNE 1, 2013

Selectman Michael Rosa read into the record the Cancer Awareness Day Proclamation.

PROCLAMATION

Cancer Awareness

June 1, 2013

WHEREAS, this year 70,000 New Englanders will be diagnosed with cancer;

Another 30,000 will die of cancer; and

WHEREAS, adoption of a healthy life style will help prevent the occurrence of cancer; and

WHEREAS, early detection, diagnosis and prompt treatment can significantly reduce suffering and death caused by this disease; and

WHEREAS, knowing the facts about cancer can save lives; and

WHEREAS, local communities can celebrate survivorship, honor loved ones, and raise money for research, education and programs to fight cancer through participation in the American Cancer Society Relay for Life in Billerica; and

THEREFORE, let it be known that the Town of Billerica hereby encourages its citizens to adopt a healthy active lifestyle and commits itself to undertaking programs that enhance early detection, diagnosis and prompt treatment, & recognizes and celebrates cancer survivorship; and

NOW, THEREFORE, the Billerica Board of Selectmen do hereby proclaim

June 1, 2013 as Cancer Awareness Day.

Selectman Michael Rosa, seconded by Selectman Andrew Deslaurier and Robert Accomando approve the proclamation.

It was voted: 5 – In Favor
 0 - Opposed

SPRING 2013 TOWN MEETING WARRANT ARTICLES

Town Manager John Curran explained to the Board of Selectmen the goal of Article 28, for the Middlesex Corporate Park Roadway Layout/Construction.

Town Counsel Patrick Costello came to the podium and explained the legalities of Article 28.

After much discussion and debate, it was decided that the Board would continue to hold off on the article.

Town Manager John Curran then discussed Article 29. He stated that the Board would have to wait to vote on the Article because the Tax Agreement had not been drawn up yet.

Town Counsel Patrick Costello stated that he anticipates having the Agreement by the time Town Meeting commences.

Town Manager John Curran stated they would wait on Article 33 until he has an opportunity to speak with Town Counsel.

MEETING SCHEDULE

The meeting schedule will be May 6 and 20, 2013, and June 3 and 17, 2013 and before Town Meeting as needed.

Selectman Michael Rosa, seconded by Selectman Andrew Deslaurier made a motion that the Board adjourn at 9:42 p.m. to go into Executive Session under MGL Chapter 39, Section 23B for the purpose of litigation relative to the Shafer Landfill.

It was voted:	Selectman Andrew Deslaurier	Aye
	Selectman Robert Accomando	Aye
	Selectman George Simolaris	Aye
	Selectman Michael Rosa	Aye
	Selectman David Gagliardi	Aye

A TRUE COPY ATTEST

Sue Aker, Recording Secretary

