

## BOARD OF SELECTMEN MEETING

March 9, 2015

Chairman Judith L. O'Connell called the meeting to order at 6:00 p.m. in Room 9 of the Town Hall. Present were Selectmen Michael L. Champoux, Louis Cimaglia, IV, Michael V. McCoy and Michael J. Newhouse. Also present was Town Manager Jeffrey M. Hull.

Upon a motion duly made and seconded and by the affirmative roll call vote of all, it was

VOTED: That the Board of Selectmen adjourn to Executive Session for the purpose of discussing collective bargaining issues with the intention to return to open session.

Chairman Judith L. O'Connell reconvened the open session at 7:06 p.m. in Room 9 of the Town Hall. Present were Selectmen Michael L. Champoux, Louis Cimaglia, IV, Michael V. McCoy and Michael J. Newhouse. Also present was Town Manager Jeffrey M. Hull.

Chairman O'Connell asked those present to rise and requested Selectman Newhouse lead the pledge of allegiance.

### TREASURY WARRANTS

Chairman O'Connell asked for a motion to accept the Treasury Warrants. A motion was made by Selectman Cimaglia, seconded by Selectman McCoy and by the affirmative vote of all, it was

VOTED: That the Board of Selectmen accept Treasury Warrants 36, 36A, 37 and 37A.

### **PUBLIC HEARING, RE: ACCEPTANCE OF STREETS AT TOWN MEETING, I.E. LT. BUCK DRIVE**

Town Manager Hull stated that in October 2014, Town Engineer Paul Alunni provided the Director of Planning & Conservation with a memorandum advising that Lt. Buck Drive has been completed in accordance with the approved Definitive Subdivision Design Plans. He advised that the roadway is eligible for acceptance as a public way and recommended to the Wilmington Planning Board that they initiate the process for Street Acceptance of Lt. Buck Drive. Town Manager Hull advised that the Planning Board recommended that the Board of Selectmen initiate the lay out the roadway and signed the mylar map at their November 12, 2014 meeting.

Chairman O'Connell asked if there were any questions or comments from the Board and there were none. Chairman O'Connell asked if there were any questions or comments from the audience. Kevin MacDonald, Andover Street, asked what bank held the performance bond for this project. Town Manager Hull advised that he did not have that information. Mr. MacDonald believed that it is a significant issue, as to who guaranteed the performance of road completion. Town Manager Hull advised that the work has been completed in accordance with the requirements, has been reviewed by the Town Engineer and has been deemed to be complete. Mr. MacDonald continued questioning whether it was a bank in which the Town has funds. Chairman O'Connell stated that the Town Manager has indicated that he is unaware of the bank and that the Town will get the information to him.

Mr. MacDonald stated that "people in town" are concerned about their investments. Chairman O'Connell asked that Mr. MacDonald not speak for other people. Mr. MacDonald made comments relative to the houses that were constructed on Lt. Buck Drive and Chairman O'Connell's occupation as a real estate agent. Chairman O'Connell advised Mr. MacDonald that her responsibility this evening was as a member of the Board of Selectmen. Selectman Newhouse stated that as Mr. MacDonald does not want to accept the parameters of the conversation and insists on widening the scope of it, he would like to make a comment. Selectman Newhouse stated that the Board of Selectmen's task is to review the recommendations of the Planning Director and

Planning Board and to ascertain whether or not the road has been constructed in accordance with the requirements of the Planning Board. He stated that apparently the road has met the requirements because the Board is now at the point where the Board accepts the roadway and it is brought before Town Meeting where the residents will decide whether to accept the roadway and whether or not the bond will be released.

Selectman Newhouse stated that the questions about which bank holds the bond is irrelevant and asked the individual when he lost the bond for Treasure Hill Road, who was the bank then and did it matter. You either finish the road or you don't and if you don't finish the road we take the bond. He noted that it is off the scope of what the Board is present to discuss.

Mr. MacDonald asked for personal privilege to address the last comment. He stated that he put up the bond himself in the form of cash and certificates of deposit and stated that the reason the Town took the bond is because the Planning Board didn't want the road finish paved until all houses were built and in the middle of the winter, when asphalt plants are not operating, and a vote was taken to pull his bond. Mr. MacDonald commented that Selectman Newhouse is also contributing to people being forced out of their houses. Chairman O'Connell ruled Mr. MacDonald's comment out of order. Selectman McCoy stated that he is a resident of 11 Treasure Hill Road and noted that residents attempted to work with the developer many times. He noted that there were 12 to 15 children in their neighborhood and it was a dangerous roadway. Mr. MacDonald took exception to this comment at which time Chairman O'Connell advised that she was ending conversation relative to this issue.

Selectman Cimaglia recognized that there were young gentlemen in the audience representing the Wilmington Little League.

Chairman O'Connell asked if there were any additional questions, comments or a motion. A motion was made by Selectman Cimaglia, seconded by Selectman Newhouse and by the affirmative vote of all, it was

VOTED: That the Board of Selectmen close the public hearing and to accept Lt. Buck Drive for further action relative to the acceptance of streets at the Annual Town Meeting on May 2, 2015.

**JOSEPH DEVLIN, ESQUIRE, RE: PUBLIC HEARING TO REQUEST THE TRANSFER AND CHANGE THE LOCATION OF THE ALL ALCOHOL LICENSE FOR TUCKER'S LIQUORS LLC DBA MAIN STREET LIQUORS, 335 MAIN STREET, UNIT 1 TO SUPER TARGET LIQUOR OF MASSACHUSETTS, INC. DBA TARGET, 210 BALLARDVALE STREET**

Attorney Devlin stated he is with Demakis Law Offices of Lynn, MA and was present on behalf of Target requesting the transfer and change of location for the all alcohol license currently held by Tucker's Liquors. In attendance with Attorney Devlin was Thomas Leach, proposed manager, and District Leaders Andy Sharelli and Jonathan Kingsley. Also present was Paul Kneeland of Tucker's Liquors.

Attorney Devlin stated that this store opened in October 2014 and has been quite successful. He stated that Target carries a variety of products and outside of Massachusetts, alcohol is a product that they carry. Attorney Devlin advised that of 1,700 stores, 1,250 carry alcohol in 37 different states.

Attorney Devlin stated that many large retailers did not seek alcohol licenses because they were limited to three. That has gone up to five, in January 2016 it will go up to seven and in 2020 it will go up to nine. He said Target would like to have the Wilmington experience the same as the Denver, Colorado experience.

He stated that the proposed sale area is small compared to the overall size of the store and noted the initial inventory will be small. He stated that Target is trying to make it convenient for their customer to get unique products at a good price. He stated that they carry approximately 25 brands that are exclusive to Target, mostly vineyards and breweries who want to try on a limited run.

Attorney Devlin stated that they have met with Chief Begonis and appreciate his time, comments and suggestions. Attorney Devlin stated that Target spends more on security than most of the liquor stores on the North Shore and Merrimack Valley area combined. Target's main goal is the safe service of alcohol and they have a 100% carding policy and the identification must be swiped through the point of sale. Chairman O'Connell asked about the policy if an employee is not of age to handle the sale of alcohol. Attorney Devlin stated that employees have to check in to their register and if the employee is under the age of 18 it will not allow alcohol to be processed. He stated that they are trained that if a customer comes to their aisle with alcohol to identify it in advance and call a manager to handle the alcohol and move to a different aisle.

Chairman O'Connell asked if there were any questions or comments. Selectman Newhouse stated that the police chief's recommendation references recommendations made to staffing and security measures and wants to make sure any recommendations are incorporated. Selectman Newhouse asked Chief Begonis how his recommendations to the applicant should be incorporated. Chief Begonis stated that the information was sent under separate cover and advised that the agreement would be the addition of security staff, change camera locations, prominent signage of video surveillance and prohibit walk through of that area by individuals who should not be there, such as unaccompanied minors.

Chairman O'Connell asked Town Manager Hull to review the recommendations received from applicable departments. Town Manager Hull advised that Police Chief Michael Begonis stated that he reviewed the application and floor plan submitted and made appropriate recommendations regarding additional staffing and security measures to which they have agreed. Building Inspector Al Spaulding advised that he reviewed the application and there are no outstanding zoning issues and Health Director Shelly Newhouse recommend approval of the transfer of the all alcohol license.

Town Manager Hull stated that recent changes permit §15 license holders to sell alcohol beginning at 10:00 a.m. on Sundays and asked what their intended hours would be. Attorney Devlin stated that they would comply with the Town of Wilmington's regulations. Town Manager stated that Town follows ABCC regulations but that the ABCC must be put on notice regarding Sunday sales. Mr. Leach stated that the point of sale will not allow the sale of alcohol outside of state guidelines.

Selectman McCoy asked for clarification regarding stores such as Target having an alcohol license. Attorney Devlin explained that a lot has to do with the change in the number of licenses a retailer may have in Massachusetts being increased and the desire that there not be brand confusion. Large retailers want customers to be able to find what they are looking for no matter which store they go to.

Selectman Champoux stated that he is a customer of BJ's Wholesale Club in Woburn, MA and notes that they have an area fenced off for the sale of alcohol with a separate cashier. He inquired if the alcohol sold at BJs is a separate entity to get around the maximum license. Attorney Devlin stated that he does not represent either entity but knows that they lease space to a separate operator. He said the challenge is finding the license as the quotas for cities and towns have not been increased.

Chairman O'Connell offered representatives of Tucker's Liquors the opportunity to speak. They declined to offer comment.

Chairman O'Connell asked if there were any questions or comments from the audience. Kevin MacDonald, Andover Street, stated that it appears there are two separate entities and asked how much does a liquor license cost and what type of financial mechanism is in place so that taxpayers receive an economic benefit. Town Manager Hull advised that the fee for an All Alcoholic Beverage License for a package store is \$1,750.

Mr. MacDonald asked if Target will be paying the entity for the liquor license. Mr. Devlin advised that Target is purchasing the license. Mr. MacDonald asked how many licenses are in Wilmington. Town Manager Hull advised that there are 22 licenses, 5 of which are package store licenses, which is the maximum. Mr. MacDonald asked how many years this license has been in effect. Town Manager Hull believes it may be two or three years but is not positive. Mr. MacDonald stated that Selectman McCoy recently sold his restaurant and believes he retained his liquor license. Chairman O'Connell advised Mr. MacDonald that there is an exchange between two parties, there has been a full presentation to the Board, they have had the opportunity to ask questions, the Board has received positive recommendations, it is clear that you are arbitrarily trying to pull trivia type questions out of the air. Mr. MacDonald alleged that Chairman O'Connell does not want to answer the questions because she has not come prepared. Chairman O'Connell stated that Mr. MacDonald wants to ask questions to deflect from the business at hand to try to put on a show. He stated that it is relevant to the police budget and was advised by Chairman O'Connell that the Board was not there to discuss the police department's budget, that discussion is for Town Meeting. Mr. MacDonald stated that the Board discussed collective bargaining. Chairman O'Connell stated that collective bargaining was not the subject matter and ruled his comments out of order. She stated that she has tried to the best of her ability to be cordial and allow him the opportunity to speak because it is a public hearing. She stated that he is off track and off point. Chairman O'Connell asked Mr. MacDonald if he had a specific question.

Chairman O'Connell asked if there were any additional questions or comments from the audience, seeing none the public hearing was closed.

Chairman O'Connell asked if there were any questions, comments or a motion. A motion was made by Selectman McCoy, seconded by Selectman Cimaglia and by the affirmative vote of all, it was

**VOTED:** That the Board of Selectmen approve the request for the transfer and change of location of the All Alcohol Package Store License of Tucker's Liquors, LLC dba Main Street Liquors, Unit 1, 335 Main Street, Wilmington, MA to Super Target Liquor of Massachusetts, Inc. dba Target, 210 Ballardvale Street.

**BRIAN KANE, VICE PRESIDENT, AND HAYDEN KANE, WILMINGTON LITTLE LEAGUE, RE: REQUEST TO CONDUCT A PARADE ON SATURDAY, APRIL 18, 2015 FROM TOWN COMMON TO ROTARY PARK IN CONJUNCTION WITH OPENING DAY CEREMONIES**

Chairman O'Connell welcomed Brian Kane and Hayden Kane and thanked them for their patience.

Mr. Brian Kane stated that this is the 7<sup>th</sup> year and is asking for approval to conduct the Little League Parade and Opening Day Ceremony on Saturday, April 18, 2015 with a raindate of Sunday, April 19, 2015. Mr. Kane stated that in the event fields are not ready due to the amount of snowfall this winter, they are asking for Sunday, April 26.

Hayden Kane described the parade route and advised that the game will feature the Orioles vs. Tigers. Wilmington Kiwanis will be providing hot dogs.

Mr. Kane stated that Wilmington Little League appreciates the support of the Town.

Chairman O'Connell asked if there were any questions, comments or a motion. A motion was made by Selectman Cimaglia, seconded by Selectman Champoux and by the affirmative vote of all, it was

**VOTED:** That the Board of Selectmen approve the request of Wilmington Little League to conduct a parade on Saturday, April 18, 2015 from Town Common to Rotary Park in conjunction with Opening Day ceremonies. Further that a rain date of Sunday, April 19, 2015 be approved.

**BOARD OF SELECTMEN DISCUSSION, RE: REVIEW OF PROPOSED TOWN MEETING WARRANT**

Town Manager Hull advised that there are 56 articles. Article 36 was modified to be consistent with articles presented in the past. He advised that Article 36 is the Butters Farmhouse article and it is the intention that the Town sell that property.

Town Manager Hull noted that the petitioned articles are as presented.

Chairman O'Connell asked if there were any questions or comments from the Board. Selectman Champoux stated that he looks forward to the public hearing.

**COMMUNICATIONS**

Town Manager Hull reviewed his memorandum relative to New England Transrail (NET). Town Manager Hull advised the Board that a meeting was held with representatives of NET to understand their proposed plans for the Olin Site. He advised that NET plans to purchase the property from Olin and construct a rail to truck transloading operation using approximately 32 acres of the 50+ acre site. As a requirement of the Environmental Protection Agency (EPA), most of the actively utilized portion of the site would have impervious surface to guard against groundwater contamination. The area designated for off loading of tanker cars is planned to be impervious and be surrounded by a berm intended to contain any potential spill. The plan also calls for establishing multiple access points to enable the testing of groundwater or extraction measures in the future if required by EPA. Town Manager Hull advised that it is expected that 20 to 25 rail cars will come to the site daily, six days per week. Each rail car is expected to contain 3 1/2 truck loads of material. NET is awaiting final terms being discussed between EPA and Olin.

It appears that EPA now believes that given the well documented extent of residual contamination and expansive EPA risk assessment that the property is safe for commercial use. NET is expected to re-file with the Federal Surface Transportation Board to obtain authorization for the proposed project within 30 days of receipt of notice that resolution has been achieved.

Selectman Champoux asked Town Manager Hull if EPA has evolved in their thinking of the usefulness or potential usefulness even though there is a high level of residual contamination from previous owners. Town Manager Hull confirmed that is his understanding from speaking with Jim DiLorenzo of EPA. He stated that the EPA believes it is reasonable to allow for a certain level of commercial use.

Selectman Champoux asked whether the town, EPA or anybody can get in writing that solid waste transfer and transfer of oil/petroleum are “off the table” as stated by NET representatives. To what degree does the town have influence of the nature of materials. Town Manager Hull stated that was one of the issues the Town tried to determine at the meeting and was told NET is a commercial entity and would keep their options open.

Town Manager Hull stated that he would like to have a conversation with Town Counsel to determine if there is an ability to mandate the types of material. Members of the Board of Selectmen stated that they were interested in hearing Town Counsel’s opinion. Selectman McCoy stated the Town wants less contamination on that site. He stated that at one time a company wanted to put a beverage distribution facility on that property which was opposed.

Selectman Newhouse added that he does not believe that over the past 20-30 years there has not been another issue in town where the entire town was in agreement that this facility is not good for the town. He stated that he believes the town is of the same opinion and he is committed to doing anything he can.

Chairman O’Connell asked Town Manager Hull what the next steps are. Town Manager Hull stated that he is reviewing the Town’s options to oppose the project. Chairman O’Connell stated that she is for economic development but believes this project is going backwards. She asked if the Town has received communication from residents of Wilmington or the city of Woburn. Town Manager Hull suspects that they may not be aware of the project at this point. Selectman Champoux asked if it would help to involve legislative delegation. Town Manager Hull stated that it would involve the Federal delegation as it is the Federal Surface Transportation Board that is the authority that would sign off on the project. Town Manager Hull advised that the Town is monitoring the STB website.

Town Manager Hull reviewed communication from the Massachusetts Municipal Association which advised that Governor Baker has filed his Fiscal 2016 budget proposal.

Town Manager Hull reviewed correspondence from the Alcoholic Beverages Control Commission regarding the inclusion of continuing care retirement communities as an on premise license type per M. G. L. Chapter 138, Section 12.

Town Manager Hull reviewed correspondence from Jill Reddish, Verizon FiOS, advising that Fox College Sports, Channels 300, 301 and 302 have been removed from the FiOS TV Extreme package.

**BOARD TO CONSIDER REQUEST OF DANA BURNHAM, PRESIDENT, WILMINGTON FARMERS MARKET ASSOCIATION, TO CONDUCT THE FARMERS MARKET ON SUNDAYS, JUNE 14, 2015 THROUGH OCTOBER 11, 2015, 10:00 A.M. TO 1:00 P.M.**

Chairman O'Connell asked if there were any questions, comments or a motion. A motion was made by Selectman Cimaglia, seconded by Selectman McCoy and by the affirmative vote of all, it was

VOTED: That the Board of Selectmen approve the request Dana Burnham, President, Wilmington Farmers Market Association, to conduct the Farmers Market on Sundays, June 14, 2015 through October 11, 2015 from 10:00 a.m. to 1:00 p.m.

**BOARD TO CONSIDER CLOSING AND SIGNING THE WARRANT FOR THE ANNUAL TOWN MEETING**

Chairman O'Connell asked if there were any questions, comments or a motion. A motion was made by Selectman Newhouse, seconded by Selectman Champoux and by the affirmative vote of all, it was

VOTED: That the Board of Selectmen close and sign the Warrant for the 2015 Annual Town Meeting.

**PUBLIC COMMENTS**

Chairman O'Connell advised that in 2002, Selectman McCoy introduced *Public Comments* which was intended for residents to be able to have the Board of Selectmen available to them to ask a general question or if they were stuck on something that they could not navigate through the maze town government. She stated that technology has advanced and the Town has an enhanced website, Town Hall office hours are Monday through Friday, 8:30 a.m. to 4:30 p.m.

Chairman O'Connell stated that she would like to give everyone an opportunity to speak but asked that they keep the intent of Public Comments in mind, keep comments and questions limited and on topic. She advised that the Board will do its best to answer questions, but if unable to, the Board will take the information and get the answer. She asked that comments be kept civil and respectful and asked if residents wish to make comments to provide name and address.

Chairman O'Connell asked if anyone wished to make public comments.

Kevin MacDonald, Andover Street, stated that he submitted a public records request relative to the new high school and demolition of the old gym. He advised that he received the information and JDC got the contract to knock down the gymnasium for \$6 million and asked the dollar amount to knock down the entire high school. Town Manager Hull stated that he did not have that information available.

Mr. MacDonald commented relative to the Olin property and that "everybody in Town would like to see a clean site". He stated that he would like to see the site decontaminated as the Town does not know how the STB will act. He stated that if NET is approved the Town would be stuck with that, how can the town benefit.

Mr. MacDonald commented relative to the Board's meeting of February 23, where the Board discussed changes to the trash and recycling program. Mr. MacDonald stated that he has spoken to several individuals and stated that each is upset that the Town is switching to 95 gallon trash container.<sup>1</sup> He stated that he believes an elderly person will have a difficult time bringing a full

<sup>1</sup>Town plan calls for 65 gallon trash container.

container down a snow-covered driveway. Mr. MacDonald opined that it is not in the best interest of the Town to enter into a 10 year contract with anybody, especially if the Town is stuck with NET. He stated that there is a potential to save money by the Town bringing its trash to NET.

Mr. MacDonald stated that he has four articles on the Warrant for Town Meeting, one of which is to suspend funding for the Yentile Farm. He stated that he received a plan from the Engineering Department and it is his opinion that a high school student could have completed it on a computer. He stated that it is his understanding that the Town paid \$31,000 to the company. Mr. MacDonald commented that the firm that did the plan was not considered for the engineering contract. Chairman O'Connell stated that his statements are not accurate.

Mr. MacDonald began to get agitated, referred to the Yentile Project as a disaster and began to reference Essex Agricultural Technical School. Chairman O'Connell advised that he was off topic. He insisted that he was not off track as it is relative to his article. Chairman O'Connell advised Mr. MacDonald that he will have an opportunity on Wednesday, March 18 and at the Town Meeting on May 2 to present his articles. She stated that the Board is aware of his articles and looks forward to his presentation.

Mr. MacDonald continued to comment about the Yentile Farm project and was asked by the Chairman to move on to another question or comment.

Chairman O'Connell asked if there were any additional public comments and there were none.

#### NEW BUSINESS

Selectman Champoux stated that the Board had the opportunity to attend the grand opening of the new Wilmington High School on February 24. He stated that you could see the excitement on the students faces. He stated that his daughter is a student at the high school and continues to tell him how wonderful the space is.

Chairman O'Connell thanked Selectman Champoux for bringing it up as it is an epic milestone for the Town. The three young faces present at tonight's meeting solidifies why members of the Board of Selectmen do what they do. She stated that there are a lot of positive things going in Town.

#### IMPORTANT DATES

Town Manager Hull reviewed important dates including:

- March 10 – Yentile Farm Development Committee – Town Hall – Room 9 – 6:00 p.m.
- March 16 – High School Building Committee – Town Hall – Room 9 – 6:30 p.m.
- March 18 – Finance Committee/Planning Board Joint Public Hearing Relative to the Warrant for the Annual Town Meeting – Town Hall Auditorium – 7:00 p.m.
- March 19 – Registration Deadline for "Rookies" T-Ball
- March 23 – Board of Selectmen Meeting – Town Hall – Room 9 – 7:00 p.m.
- April 4 – Rabies Clinic – Public Buildings Department – Noon to 2:00 p.m.
- April 4 – Easter Egg Hunt – Town Common – 2:00 p.m.
- April 6 – Last Day to Register to Vote at the Annual Town Election and Town Meeting – Town Clerk's Office Open 8:30 a.m. – 8:00 p.m.



There being no further business to come before the Board, a motion was made by Selectman Cimaglia, seconded by Selectman Newhouse and by the affirmative vote of all, it was

VOTED: That the Board of Selectmen adjourn.

Meeting adjourned at 8:17 p.m.

Respectfully submitted,

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Recording Secretary