

BOARD OF SELECTMEN
NOVEMBER 22, 2011, 7:00 PM
MINUTES

MEETING: Chairman Philpot called the meeting to order at 7:00 PM. Roll call established that Selectman Furmaniuk, Selectman Sushchuk and Chairman Philpot were all present.

Chairman Philpot read the statement declaring the Sterling Lancaster Cable Television the only electronic copy of the meeting.

AGENDA: Selectman Furmaniuk made a motion to remove item #3 from the agenda for two reasons. He reminded the Board of the withdrawal notice from Anne Marie Belair as a candidate for the Personnel Board and that two other residents have volunteered to serve on the Board. With that reason and the fact that it has not been a full two weeks for submitting letters of interest he requested that the appointments be put off. He also added that he and Selectman Sushchuk have not had the chance to interview the other candidates and requested a date be set for the interview process (December 7th). 2nd by Selectman Sushchuk. Philpot noted they are one day short of the two weeks. The motion was made and approved, two in favor, one against. Larry Pape, Chairman of the Finance Committee, objected to the delay. He stated the deadline had passed, the Moderator and Finance Committee have made their recommendations and he wanted to go forward with the appointments. Mr. Kumar, a candidate to the Personnel Board, asked that the interviews with all 3 appointing authorities be scheduled for one night.

The motion carried and item #3 was removed from the agenda.

APPROVAL OF
MINUTES:

Selectman Philpot made the motion to approve the minutes of October 12, 2011, 2nd by Selectman Furmaniuk. Two in favor, one abstained (Sushchuk was not present at meeting). Selectman Sushchuk made the motion to approve the minutes of October 19, 2011, 2nd by Selectman Furmaniuk. All in favor.
Selectman Sushchuk made the motion to approve the minutes of October 26, 2011, 2nd by Selectman Furmaniuk. All in favor.

7:05 PM

RIGHT TO FARM: Michael Pineo, a member of the Agricultural Commission, showed the Selectmen a Right to Farm sign that has been posted within the Town of Sterling with the help of the DPW. The sign is to help make people aware that Sterling supports the Right to Farm. The Board congratulated Mr. Pineo on the design and placement of the signs.

7:10 PM

TOWN ADMINISTRATOR'S

ANNOUNCEMENTS: Ms. Ackerman asked the Board of Selectmen if they were in favor of sponsoring the holiday brunch this year and what their preferred date was to hold the event. The Board agreed to sponsor the holiday affair on December 23, 2011 from 8:30 AM to 11:00 AM.

Ms. Ackerman reported on the Cultural Council appointments and terms. She explained that according to Chapter 10, Section 58 the Council is allowed to have between 5 and 22 members, 3 year terms, each member not to exceed two terms or 6 years without a break. Chairman Philpot questioned if it were legal for boards and committees members to hold 5 year terms. Ms. Ackerman reported that yes and several committees in Sterling have 5 year terms.

A review of the legal service bills showed that the expenditures were far over the budgeted amount for FY12. It showed that 28% of the bill was spent on personnel issues. The Board had some questions with regards to soliciting town counsel's opinions. Mr. Philpot asked the Town Administrator for written copies of all the opinions, she agreed to provide them.

Ms. Ackerman informed the Board that a resolution to the drop box and payment collections of the dog licenses has been resolved. Collection hours have been posted to the box outside the Butterick Building and will be added to the licensing notices to eliminate further confusion on collection and due dates.

Hardscrabble Road will be advertised in the Central Register, starting November 30 and will run for 30 days. Ms. Ackerman then explained this raises a question of whether to negotiate terms with all three Selectmen in Executive Session or appoint one member of the Board to do the negotiating. The Board voted to negotiate in Executive Session.

COMMON VICTUALLER

LICENSE: Selectman Sushchuk made the motion to approve the common vicutaller license for the Hot Shot Café' for November 26th and 27th, 2nd by Selectman Furmaniuk. All in favor.

SPECIAL TOWN

MEETING/WRSD: The Board discussed the proposal from the WRSD School Board and Thomas Pandiscio, Superintendent of WRSD, regarding the expenditure of \$1 million dollars for the purchase of I-Pads for the school district. It was reported that the School Board voted unanimously to support the purchases of the I-Pads. Selectman Furmaniuk stated that he would like to hear more about the expenditure; Selectman Sushchuk expressed his displeasure with the spending of the region's money. Chairman Philpot said he understood both sides but questioned the extent of the region's support. Rutland's Selectmen wanted to hold a regional board meeting to discuss the proposal.

Selectman Sushchuk made the motion to not support the proposed expenditure, 2nd by Selectman Philpot. The Board did agree that they were interested in attending the regional meeting to hear the discussion.

POLICY

MEMORANDUM #1: Selectman Sushchuk initiated the conversation by asking Chairman Philpot why he took it upon himself to confront Mark Brodeur, Town Building Inspector, by telling Mr. Brodeur that he had no authority to issue a cease and desist order on a resident in town. Selectman Furmaniuk added that Chairman Philpot was walking a fine line acting independently with what could be considered interfering with a department head and the operation of his department, which is in violation of the Policy Memorandum #1 of August 2009.

Chairman Philpot questioned how the Board interpreted his asking questions and researching an issue as interfering or obstructing a department head. Upon receiving a fax from a taxpayer and

a phone call from another elected official, he simply read the DEP regulations and asked some questions of Mr. Brodeur. He stated that at no time did he abuse his authority or tell Mr. Brodeur “that he did not have the authority” to act. Chairman Philpot said that if there was any violation of Policy Memorandum #1, it was being done by the author of the policy and named a few incidents including Mr. Sushchuk holding a secret meeting one evening, after hours in the employee’s lunch room of the Town Hall with two members of the BNUC. Mr. Sushchuk denied ever holding the meeting and then stated the matter is irrelevant. The Board members continued to discuss the most recent incident and asked Mr. Brodeur what his perception of the incident was. Mr. Brodeur stated that Chairman Philpot clearly made the statement the he (Brodeur) did not have the authority to act as he did. Mr. Brodeur stands by his decision to issue a cease and desist and further action will be taken if the resident cited does not comply. Philpot then asked Brodeur what his qualifications were to make the observation and pointed out that reports indicate the Sterling BOH had made 43 visits and the State DEP at least one additional visit and found no problems. Yet, Mr. Brodeur, without any qualifications, visited once and writes a cease & desist letter.

Selectmen Furmaniuk and Sushchuk stated that the real issue was that the Board of Selectmen did not need to be involved; it was clearly Mr. Brodeur’s jurisdiction.

Brian Favreau, owner of Rocky Acres, stepped forward to say that the issue involved him and a wood furnace on his property, which caused the neighbors to complain. His concern was that the complaint was attacking his character and labeling him as polluter of Sterling. Mr. Favreau reported that he has had this furnace for 8 seasons and the first complaint was made last year. He informed the Board that he felt this had more to do with neighborhood politics than anything else.

BLACKSHEEP

TAVERN:

Don DeAmicis of 2 North Row Road presented the Board with a Neighborhood Petition to limit the entertainment license of the establishment known as The Black Sheep Tavern restaurant located at 261 Leominster Road.

Chairman Philpot disclosed that he is familiar with both brothers who own the business, is friends with one of them and believed this relationship would not affect his ability to arrive at a fair and impartial decision on this matter. He reported that he had checked with Town Counsel and it was determined there was not a conflict in him hearing the complaint. Mr. DeAmicis accepted the statement and agreed.

Chairman Philpot informed the group that tonight the Board will hear their complaints and the owners/representative of the Black Sheep Tavern have not been invited to speak although they are welcome to attend the meeting and comment if they like. The Board will then invite the Tavern to the next regular meeting to hear their responses.

Mr. DeAmicis explained that he and the neighbors have had issues with the music and the loud motorcycles coming from The Black Sheep Tavern. He expressed that the owner of the establishment has demonstrated little or a no good faith effort in addressing the issues. He stated that the rest of neighbors agreed and informed the Board that the environment around the establishment is not conducive to the neighborhood. Ms. Paparella of 6 Pratts Junction Road reported that the noise is very disruptive not only to people but to her animals. They questioned the Board whether the present liquor license permitted the serving of alcohol outside, the piping of music outside and asked for the names of actual owners of The Black

Sheep Tavern. Mr. _____ stated he does not normally complain about things, but he has made 30 to 40 phone calls over the last two years to the Sterling Police complaining about loud music, motorcycles, etc. coming from the Tavern. Ms. _____ stated she had complained about a loud hand-held horn being blown in the Tavern parking lot at/about 2:00 am one evening. Another neighbor complained that their cars had been broken into this summer attributing this activity to the Tavern. Chairman Philpot briefly referred to an e-mail from the Police Chief which stated "I have not heard any complaints about this location since the passing of Deanna Battstone." Mr. Philpot commented Deanna was a lovely lady who left us approximately two years ago.

CODIFICATION:

Dawn Michanowicz, Town Clerk, met with the Board to wrap up the codification process. She reported that there were 5 remaining items that needed to be discussed and votes taken. Ms. Michanowicz proceeded by explaining that the first item, Chapter 180 Section 8, contained a typographical error. Selectman Sushchuk made the motion to approve the correction, 2nd by Selectman Furmaniuk. All in favor.

The second item, Chapter 192, Ways, Section 192-13 needed to add the words **and** to the section. Selectman Sushchuk made the motion to adopt the change by adding **and**, 2nd by Selectman Furmaniuk. All in favor.

The third item in question was Chapter 192 Ways, Section 192-25, which could be left alone or add wording to say **to shoot with a bow and arrow or air gun**. Selectman Sushchuk made the motion to add the original words, 2nd by Selectman Furmaniuk. All in favor.

Items 4 (Chapter 1, General Provisions, Article III Noncriminal Disposition) and item 5 (Revote Article 45 of the Annual Town Meeting of May 11, 2009) were discussed and the Board agreed to have stand alone articles voted on at the Annual Town Meeting of 2012 or a future date.

TREE TRIMMING

ARTICLE:

The Board of Selectmen agreed to wait for a plan to be submitted by the Department of Public Works before acting on articles for the town meeting.

RESIGNATION OF

BOARD OF HEALTH

MEMBER:

The Board reviewed the correspondence from the Board of Health and Stanley Selkow regarding his decision to resign from the Board of Health due to a conflict in his work schedule. Mr. Selkow reported that he would be stepping down after the Board of Health meeting on December 8, 2011. The Board of Health recommended the appointment of Allen Hoffman, a past member of the Board, until the next election being held in May 2012.

Selectman Sushchuk made the motion to appoint Allen Hoffman to the Board of Health, 2nd by Selectman Furmaniuk. Roll call; Sushchuk aye, Furmaniuk aye, Philpot nay.

ADJOURNMENT:

Selectman Furmaniuk made the motion to adjourn the meeting at 9:05 PM. 2nd by Selectman Sushchuk. All in favor. The next scheduled meeting is December 7, 2011.

RESPECTFULLY SUBMITTED

RONALD A. FURMANIUK

CLERK