

TOWN OF STERLING  
BOARD OF SELECTMEN  
January 8, 2014

MEETING

Selectman Furmaniuk called the meeting to order at 6:33. Roll Call: Chairman Furmaniuk – Present. Selectman Cutler - Present. Selectman Patacchiola – Present. At 6:34 pm, Chairman Furmaniuk declared that the Board would be convening into executive session for the purpose of discussion under Chapter 30A Section 21(a)(3) – to discuss strategy with regard to the Personnel Board's adoption of the classification and compensation plan in preparation for collective bargaining negotiations with bargaining units whose contract(s) expire on June 30, 2014. A discussion in Open Session with regard to same may have a detrimental effect on the Town's bargaining position. The executive session will also include Chapter 30A Section 21 Reason #1 Meet with Town Counsel – Open Meeting Law Complaint of Dec 2, 2013 to be followed by open session discussion to receive and authorize response to complaint.

**VOTE:** Selectman Cutler moved the motion that the Board convene in executive session, for the purpose of discussing strategy with respect to Chapter 30A Section 21(a)(3) – to discuss strategy with regard to the Personnel Board's adoption of the classification and compensation plan in preparation for collective bargaining negotiations with bargaining units whose contract(s) expire on June 30, 2014 and Chapter 30A Section 21 Reason #1 Meet with Town Counsel – Open Meeting Law Complaint of Dec 2, 2013 and to return to public session following the Executive session. Chairman Furmaniuk 2<sup>nd</sup> the motion. Roll Call

**VOTE:** Chairman Furmaniuk – Aye. Selectman Cutler – Aye. Selectman Patacchiola – Abstained. Motion Carried.

The Board reconvened in Public session at 7:23.

Selectman Patacchiola moved the motion to release the executive minutes for September 25, 2013, regarding the meeting with the Light Department. Selectman Cutler 2<sup>nd</sup>. All in favor. Motion carried.

Selectman Patacchiola moved the motion to approve the Executive minutes for December 18, 2013, not to be released until the issue is resolved. Selectman Cutler 2<sup>nd</sup>. All in favor. Motion carried.

Selectman Cutler moved the motion to approve the public session minutes for December 18, 2013. Selectman Patacchiola 2<sup>nd</sup>. All in favor. Motion carried.

Fire Department  
Quarterly Report

Chief David Hurlbut presented his quarterly report for the Fire Department. Included in the report was the following:

**September Review:**

- Received federal reimbursement for Super Storm Nemo which hit us in February 2013. Reimbursement was for \$33,813.34
- Conducted Fire and Evacuation Drills at the Schools
- Received Emergency Management Planning Grant for \$2,030 from MEMA
- Received C.E.R.T. Grant for \$2,300 from MEMA

**October Review:**

- Student Awareness of Fire Education (S.A.F.E.) programs kicked off in the schools
- Attended Quarterly Emergency Management Directors meeting with Jim Emerton at the American Red Cross in Worcester
- Hosted Public Safety Open House on October 5<sup>th</sup> and C.E.R.T. team provided traffic detail coverage for annual Maypothor Road Race
- Quarterly meeting of the Regional Emergency Response Committee held at the DCR facility in West Boylston and a tabletop exercise was held

**November Review:**

- Received Volunteer Fire Assistance Grant for \$3,600
- Annual liquor license inspections completed in conjunction with the building inspector
- Attended meeting at State D.O.T. facility in Worcester in regards to Chocksett Crossing intersection
- Department EMT's provided medical coverage at annual CycloCross Bike Race held behind the schools on November 30<sup>th</sup> and December 1<sup>st</sup>

**December Review:**

- Department participated in Wreaths Across America Tour that drove through Sterling enroute to Thomas Prince School in Princeton on December 10<sup>th</sup>
- Department Christmas party held on December 18<sup>th</sup>
- Prepared FY15 department and capital budgets

**Major Fires for Period:** The department responded to a 3-alarm house fire in Lancaster on September 7<sup>th</sup>, a shed fire on North Cove Road on November 21<sup>st</sup> and several large outside fires in November due to the dry weather conditions. We also provide mutual coverage to Leominster and Clinton for fires in their communities during this time.

December Police  
Report

Chief Gary Chamberland presented his monthly report for December of 2013. Included in the report was the following:

Personnel, Training and Equipment:

- Hiring process moving forward for patrol officer. Received 85 resumes, reviewed those and have selected 16 to give a written test on 18 January. Letters sent out both rejected candidates and to those moving forward. Applications and written test schedule sent out. (Copy included)
- New police cruiser was delivered, all wheel drive Explorer. Trying a new "subdued markings" on an all black paint scheme.
- Officers underwent certification of CPR and First Aid.
- Sgt Pomeroy scheduled for Two Week Sgt training. Course outline enclosed.

Community Interaction:

- Assisted recreation department the tree lighting and hay rides, well attended even in the inclement weather.
- Provided additional security checks for Boy Scout Troop 1 Christmas tree sales. (Letter enclosed.)
- Attended AAA pedestrian safety seminar in Worcester.
- Central Massachusetts Christmas Party was held in Sterling this year at the Chocksett Inn.

General Police Business:

- Signed a Mutual Aid Agreement with Worcester. Basically gives authority police power in Worcester when going to court or transporting prisoners to hospitals.
- Received authorization and approval of a \$10,000 training grant for E-911.
- Twenty-one crashes during the month. Two were rear end collisions at Chocksett and Leominster.
- Fifty-one motor vehicle stops and fifteen citations.

Regional Dispatch

After discussion with Chief Chamberland and Chief Hurlbut, the consensus of the Board was that it would be prudent for the Police and Fire Chiefs to further investigate the costs/cost savings and details of joining a regional dispatch center. It is their belief that, while there is no impetus, at the moment, to proceed with this option, it is in the Town's best interest to investigate, prior to an urgent future need. Therefore, the Board has requested that the Chiefs gather the information and the Board meet jointly with them and the Finance Committee in the spring.

Minuteman Road Race

Bill Turner, John Smith and Paul McQuade of the Minuteman Road Club requested that the Road Race be approved for May 10<sup>th</sup> 2014. The Board listened to the road club managers and then to several citizens who respectfully requested that the race not be allowed to continue due to problems that frequented the event and additional tax dollars used to support the race. **VOTE:** Selectman Cutler moved the motion to approve the Minuteman Road Race for May 10, 2014. Selectman Patacchiola 2<sup>nd</sup>. Selectman Patacchiola – Aye. Selectman Cutler – Opposed. Chairman Furmaniuk – Opposed. Motion defeated.

Kopelman and Paige

Gregg Corbo, Esq. and Brian Maser, Esq. from Kopelman and Paige Law Offices, addressed the Board. Attorney Corbo will be the contact person within the firm regarding general services, while Attorney Maser will be the contact person regarding labor issues. In response to the open meeting law deficiencies, that were sighted by the Attorney General's office in regard to complaints from last summer, Attorney Corbo explained that as a free service to the Town of Sterling, he will conduct training on Open Meeting Laws for both staff and committee/board members on February 10<sup>th</sup>, 2014. This training will fulfill the requirements for the Board of Selectmen to participate in Open Meeting Law training, as determined by the Attorney General in response to the Open Meeting Law complaints. The training will take place during working ours for staff members and after hours for Committee/board members.

After discussion, **VOTE:** Selectman Cutler moved a motion to authorize the Chairman to work with the Town Counsel to address the Open Meeting Law complaint from November 20, 2014. Selectman

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	<p>Patacchiola 2<sup>nd</sup>. All in favor. Motion Carried. The Board thanked the Attorneys for their assistance, prior to their actual start date of January 1, 2014 and congratulated them on the smooth transition.</p>
Community Preservation Act	<p>After discussion, the consensus of the Board was that the Community Preservation Act would place an additional financial burden on the tax payers, with uncertain financial benefits provided by the State. Therefore, without a strong showing of community support, the board will not pursue this issue.</p>
Government Study Special Legislation DPW	<p>The Government Study committee had recommended that "in order to provide the most effective and efficient services to the citizens of the Town, it is important that all the services and procurement be centralized under one board that has the clear authority and responsibility and can be held accountable for performance in the minds of the citizens/voters of Sterling. " For this reason, it was recommended that the DPW be accountable to the Board of Selectmen with the DPW Board acting in an advisory capacity. Selectman Cutler suggested that this issue be tabled until such time as the new Town Administrator can be advised and participate in the details of this issue. The consensus of Board was that this was an acceptable course of action.</p>
MIIA Insurance FY15 & FY16 Renewal	<p>The Board considered a proposal by MIIA Property and Liability and Worker's Compensation programs for Fiscal Year 2015 and Fiscal Year 2016. VOTE: Selectman Cutler moved a motion to approve the proposal. Selectman Patacchiola 2<sup>nd</sup>. All in favor. Motion carried.</p>
Business and Correspondence	<p><b>Appointment:</b> After discussion <b>VOTE:</b> Selectman Patacchiola moved a motion to approve the appointment of James Wilkinson, upon the recommendation of the Open Space Implementation Committee, to said committee. Selectman Cutler 2<sup>nd</sup>. All in favor. Motion carried.</p> <p><b>NEIGHBOR TO NEIGHBOR:</b> After discussing the needs of Neighbor to Neighbor applicants, <b>VOTE:</b> Selectman Patacchiola made a motion for disbursement from the Neighbor to Neighbor fund to match up to \$700.00, to be paid to the Sterling Municipal Light Department, with the condition that the applicant pay a sum of money to the Sterling Municipal Light Department and the Light Department place this applicant on a payment schedule, with the applicant's total debt to the Light Department to be paid, in full, within 12 months or however the Light Department deems appropriate in their meeting. Selectman Cutler 2<sup>nd</sup>. All in favor. Motion carried.</p> <p>Another Neighbor to Neighbor application was considered by the Board. Spadafore Oil Co. has delivered oil to the needy family, per the request of the Neighbor to Neighbor representative. The total expense for the oil was \$460.00. However, since the representative had not made the determination as to how best to assist this family with the remainder of the maximum Neighbor to Neighbor disbursement of \$1200.00 per family, it was decided to table the request for disbursement until the next meeting.</p> <p><b>LICENSE RENEWALS:</b> After discussion: <b>VOTE:</b> Selectman Patacchiola moved a motion to approve the request for the renewal of the Common Victualler License for the First Church. Selectman Cutler 2<sup>nd</sup>. All in favor. Motion carried.</p> <p>After discussion: <b>VOTE:</b> Selectman Patacchiola moved a motion to approve the request for the renewal of the Entertainment License for the Harvest Grille. Selectman Cutler 2<sup>nd</sup>. All in favor. Motion carried.</p> <p><b>SPECIAL MUNICIPAL EMPLOYEE STATUS:</b> A request was made to the Board to designate the Board of Assessors as Special Municipal Employees. Attorney Corbo explained the following to the Board.</p>

"Special municipal employee" status can be assigned to certain municipal positions by a vote of the board of selectmen, board of aldermen, town council or city council. The designation may be made by a formal vote at any time. Votes should be taken individually for each board or position being designated—expressly naming the positions being designated. Once a position is designated as having "special" status, it remains a "special municipal employee" position unless and until the classification is rescinded.

A position is eligible to be designated as a "special municipal employee" position provided that the municipal employee:

- Is not paid; or
- Holds a part-time position that allows him or her to work at another job during normal working hours; or
- Was not paid by the city or town for more than 800 working hours (approximately twenty weeks full-time) during the preceding 365 days.

It is the municipal position that is designated as having "special" status, not the person holding the position. Therefore, all employees holding the same office or position must have the same classification as "special municipal employees." For instance, one member of a school committee cannot be classified as a "special" unless all members are similarly classified.

The conflict of interest law (M.G.L. Ch. 268A) covers all municipal officials and employees, whether elected or appointed, paid or unpaid, full-time or part-time, but two sections of the conflict law apply less restrictively to those part-time or unpaid municipal officials who have been designated as "special municipal employees."

Chapter 268A, Section 17, generally prohibits municipal employees from representing a private party before any municipal boards or departments. It also prohibits municipal employees from acting as agent (or attorney) for a private party in connection with any matter of direct and substantial interest to their city or town. Finally, it prohibits municipal employees from accepting pay or other compensation in connection with any matter of direct and substantial interest to their municipality.

The prohibitions of Section 17 for special municipal employees are less restrictive and only apply to matters that are before their own board or agency or are subject to their official responsibility. Chapter 268A, Section 20, generally prohibits municipal employees from having a direct or indirect financial interest in a contract with their city or town. There are, however, many exemptions in this section, and the prohibitions for special municipal employees are less restrictive. A special municipal employee may even have a financial interest in a contract with her own department (or with a department that has overlapping jurisdiction with her department), provided that she files a disclosure of her interest in the contract with the city or town clerk and the board of selectmen, board of aldermen, town council or city council vote to grant her an exemption to Section 20. After discussion, **VOTE:** Chairman Furmaniuk made a motion to designate the Members of the Board of Assessors as Special Municipal Employees. Selectman Cutler 2<sup>nd</sup>. Chairman Furmaniuk – Aye. Selectman Cutler abstained on the grounds that he is a member of the Board of Assessors. Selectman Patacchiola – opposed. Motion did not carry.

**SCHOOL CLOSING:** Consideration for approval of May 11, 2015 as Election day, in order to close all Schools, in the District, for that purpose. After discussion, **VOTE:** Selectman Cutler moved a motion to designate May 11, 2015 as a no school day, for Town Election purposes. Selectman Patacchiola 2<sup>nd</sup>. Selectman Cutler – Aye. Chairman Furmaniuk – Aye. Selectman Patacchiola – Opposed. Motion

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carried.

**AUTHORIZATION TO SIGN:** A request was made by the Executive Assistant to receive authorization from the Board to sign payroll and bills. After discussion, the consensus of the Board was that they would prefer to wait for input from the new Town Administrator, who will begin work later this month.

Public Session

Mr. Rivers brought up the concern of the Open Meeting Law issue. He reported that the Sterling Open Meeting Law violations had been the topic in the Worcester Telegram and Gazette.

Mr. Philpot requested that the Attorney General's most recent decision regarding Open Meeting Law violations be posted on the town's web-site. Note: The decision has been posted on the BOS page under "Additional Links".

Ms. Mapp requested updated information regarding the proposed Slots Parlor in Leominster.

Adjourned

Selectman Cutler moved a motion to adjourn at 9:34. Selectman Patacchiola 2<sup>nd</sup>. Motion carried.

List of materials: Fire Dept report, Police Dept. Report, MGL Chapter 44B (CPA law), MGL Chapter 268A (special Employees), Municipal Databank info of CPA Matching Funds, Minuteman Road Club flyer, OML complaint dated 2013 12 2, MIIA 2 year Guarantee Proposal, WRSD request for School Closing on 2015 05 11, Article 11, 2011 05 16 (Regionalization of Dispatch)

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