

Board of Selectmen Minutes 09/09/2015

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Board of Selectmen	September 9, 2015
Regular Session	Selectmen's hearing room, Town Hall

Present:	Philip Crawford, Chairman
	Thomas Terranova Jr., Selectman
	Christopher Barrett, Selectman

Chairman Crawford called the meeting to order at 7:00 p.m. He announced that the meeting was being recorded for transmission via cable television. He led those assembled in the Pledge of Allegiance.

Continuation of hearing on allegations of liquor license violations, Yard House USA, dba Yard House, Market Street

The Board took up the matter of determining whether to impose disciplinary action on Yard House as a result of incidents on May 1, 2015 and May 9, 2015, which were referred to the Board of Selectmen by the Lynnfield Police Department. Testimony on the matter was taken at the July 13, 2015 meeting of the Board, and the findings and possible corrective action were discussed at the August 17, 2015 meeting of the Board.

Town Counsel Thomas Mullen said Yard House attorney Timothy Perry and he had drafted a letter of agreement that states the Yard House will hire a police detail through the Lynnfield Police Department on Thursday, Friday and Saturday evenings over at least a two-year period if the Board issues a warning on the alleged violations on May 1 and May 9 and find there was no violation of law.

Chairman Crawford said he did not agree there was no violation, but he said the most important thing was having the police details for at least two years. If Yard House contests a penalty to the Alcoholic Beverages Control Commission (ABCC), the Town could wind up with nothing.

Selectman Terranova said that he remembered that the Board had sought an agreement for details in perpetuity, and that the Board would impose a penalty of two days' suspension to be held in abeyance for two years and not imposed if there is no subsequent violation during that time. Mr. Mullen said that Yard House would not agree to those terms, and said that if the Board imposed that penalty they would appeal to the ABCC. He said Yard House has never been found in violation of its license in any location, and that this is the best deal the Town could reach. He said the Board could impose a penalty, which would be appealed, and the ABCC requires strong evidence, including eyewitness testimony that the party in question was visibly drunk. Selectman Terranova said he read ABCC cases and agreed with Mr. Mullen's analysis.

Selectman Barrett said that a Yard House representative agreed at an earlier meeting to details indefinitely. Chairman Crawford said that the corporate manager agreed, but counsel did not. He asked if the ABCC would uphold a penalty of two days held in abeyance. Mr. Mullen said that the case law is challenging for the licensing authority and that this agreement is clearly the best one the Town can achieve if the provision of police details is the top priority.

Chairman Crawford said that if there is a subsequent violation, the Board could bring Yard House back in, and that it is in the best interest of the Town to accept the terms that will require details for three years. Mr. Boudreau said imposing a penalty would risk Yard House pulling back from the agreement on details. In response to questions from Selectman Terranova, Police Chief David Breen said there have been no subsequent issues at Yard House and he has been pleased with their cooperation and with the details. Selectman Terranova said that this at least allows the Town to get some corrective action and agrees to adhere to town counsel's recommendation if this is the best deal the Town can achieve without risk of losing the police details. Selectman Barrett said he wanted a longer term for the details but said that if there is a subsequent issue Yard House would be brought back before the Board.

On the motion of Selectman Terranova, duly seconded by Selectman Barrett, the Board approved no finding in the Yard House hearing and agreed to the agreement on provision of details for Thursday, Friday and Saturday nights as negotiated by town counsel.

COPSync presentation and donation

Chief Breen and Superintendent of Schools Jane Tremblay appeared before the Board to request the Board accept a donation that would be for COPSync, a new security program being implemented by the school and police departments.

Chief Breen said he discussed the program with the Saugus police chief, who is every happy with it. He and Ms. Tremblay described the program, which is a computer-based security system that allows school personnel to alert police and other officials of a security incident in the schools silently through their classroom computers or laptops and would alert all police cruisers and headquarters within a fixed area. Police would be provided with a map of the building and real-time updates from school personnel. This would increase response time and allow communications directly between school and police personnel on issues such as the location of intruder within the school. Personnel can cancel an inadvertent

triggering of the system within a time frame or expedite the signal. Saugus, Danvers and Peabody have this system in place and two other adjoining communities are considering adding it.

Chief Breen said that he became aware of this opportunity after the budget was completed and approached area banks to support the program. The Savings Bank has offered to pay for the installation of the system for the 2015-2016 school year, at no cost to the Town.

Chairman Crawford said this will be a great asset to the Town. Board members thanked representatives of The Savings Bank for the bank's generosity. Selectman Terranova asked about the cost. Chief Breen said the Town is being offered an advantageous price. Mr. Boudreau said that this would cover the more expensive installation and training costs, and annual maintenance costs would be much lower.

Selectman Barrett said the School Committee had made safety a top priority and that this is a major addition to that effort.

On the motion of Selectman Terranova, duly seconded by Selectman Barrett, the Board voted to accept a donation of funds from The Savings Bank for installation of the COPSync program.

Personnel Board interviews

The Board held brief interviews with six applicants for the Personnel Board.

Wayne Shaffer is a 40-year resident who has served on the Recreation Commission and has been active in youth sports. He has owned his own businesses, dealt with hiring and firing issues, and said he is a people person. He said he wishes to give back to the community.

Denis Ritchie is a 24-year resident who served on the Recreation Commission and in various local efforts. He has worked in the private sector in mergers/acquisitions and has negotiated many contracts. He said he could bring a unique perspective to

Kip Sanford is a 21-year resident who has worked in the banking and commercial real estate fields with Bank of America, and has been a member of industry and nonprofit boards. He said he is hoping to serve in a capacity where his skills can benefit the Town.

Gail Marcus is a three-year resident who has been a CEO of several businesses and has dealt with a wide range of personnel issues. She is currently CEO of a toxicology lab listed as one of the top 100 women-led businesses in the state.

Michael Griffin is a 32-year resident who has three children in the Lynnfield schools. He has spent the bulk of his career with Gillette in marketing and business development and has led departments with more than 509 people, developed contacts and volunteers with the Big Brother organization. This would be his first municipal service.

Michael Shaer is a 17-year resident who is the father of three girls who attended Lynn public schools. He said he has volunteered because the Town has been very good to him and his family.

Chairman Crawford said the Board would choose five members at its October 5 meeting.

Interview: LIFE Board of Directors

Sal Yerardi appeared before the Board to interview for the LIFE, Inc. Board of Directors. Under the terms of the LIFE bylaws, the Board as Class A stockholder appoints LIFE board members. The Board had previously received notice from LIFE board member Fred Santangelo that he was stepping down at the end of his term.

Mr. Yerardi is a resident of Center Village and chairman of that development's board of governors. He has two children who attended the Lynnfield public schools. He has 44 years of experience in engineering and as a professor, working in the aerospace, nuclear power and transportation industries. He holds a master's degree in engineering.

He has been active in issues relating to the start-up of the new Colonial Village.

Board members said they were impressed by his qualifications and that he would be a good fit for the LIFE board. LIFE board chairman H. Joseph Maney said he is endorsed by the current board members and the Colonial Village Board of Directors.

On the motion of Selectman Terranova, duly seconded by Selectman Barrett, the Board voted unanimously to name Sal Yerardi to the LIFE, Inc. Board of Directors for a period from September 19, 2015 to the date of the annual LIFE meeting in September of 2018.

Public hearing, application for a restaurant all-alcohol license, California Pizza Kitchen, Inc, dba California Pizza Kitchen, 1150 Market Street, Thomas Whalen, manager

Chairman Crawford opened the public hearing on the application for a restaurant all-alcohol license, California Pizza Kitchen, Inc, dba California Pizza Kitchen, 1150 Market Street, Thomas Whalen, manager, after the 7:15 p.m. hearing time. The hearing was posted and advertised in accordance with law and abutters were notified by the petitioner.

Attorney Greg Demakis, of Demakis Law Office of Lynn, representing the petitioner, and prospective manager Thomas Whalen appeared before the Board. Mr. Demakis said that the restaurant will be the seventh California Pizza Kitchen in the state. He said there have been no suspensions or violations in Massachusetts. The 6085 square-foot restaurant will hold 237 seats and build-out will cost \$2.8 million. Approximately 80 people will be employed once it is open. He said it would be a family-oriented restaurant.

Mr. Whalen has managed several restaurants in his career. He said in response to questions from Chairman Crawford that all servers and bartenders receive training in safe service of alcohol. He said there is no entry to the patio section except through the restaurant.

Selectman Terranova said that the discussion about the alleged violations at Yard House earlier demonstrates that the Board takes alcohol education and safety very seriously. Market Street is located in a residential area. The Board does not want problems or to see customers or others injured as a result of unsafe practices. Selectman Barrett said that the previous discussion makes it obvious how the Board deals about any issues arising from alcohol service at Market Street. Mr. Whalen emphasized that the emphasis is on serving families and that alcohol sales make up only 12 percent of revenue at Market Street.

Chairman Crawford asked for public input. There was none.

On the motion of Selectman Terranova, duly seconded by Selectman Barrett, the Board voted unanimously to approve the application for a restaurant all-alcohol license of California Pizza Kitchen, Inc., dba California Pizza Kitchen, 1150 Market Street, Thomas Whalen, manager.

Common victualler and weekday entertainment licenses, California Pizza Kitchen

On the motion of Selectman Terranova, duly seconded by Selectman Barrett, the Board voted unanimously to approve the application for a common victualler license for California Pizza Kitchen, Inc., dba California Pizza Kitchen, 1150 Market Street.

Chairman Crawford said it is important that noise not spill out from Market Street to the residential neighborhood surrounding it. Mr. Whalen said the entertainment license sought is for background music and two televisions. No live performances are planned and outdoor speakers will be set at an appropriate level.

On the motion of Selectman Terranova, duly seconded by Selectman Barrett, the Board voted unanimously to approve the application for a weekday entertainment license for California Pizza Kitchen, Inc., dba California Pizza Kitchen, 1150 Market Street, for televisions and recorded music.

Common victualler application, Ya Rui, Inc. dba Ming's Chinese Restaurant, 12 Salem Street

Andrea Kor, a paralegal in the office of attorney Christopher T. Coleman, represented the petitioner. She appeared with Yidi Chen, the owner. Ms. Kor said that this is a change of ownership, but the restaurant name and the menu would remain the same. She said Mr. Chen has eight to ten years experience in the Chinese cuisine industry, and is ServSafe certified in food handling practices. The menu may change over time with customer input. Resident Patricia Campbell asked if the restaurant would continue its policy of having no MSG. Ms. Kor said it would.

On the motion of Selectman Terranova, duly seconded by Selectman Barrett, the Board voted unanimously to approve the application for a common victualler license for Ya Rui, Inc. dba Ming's Chinese Restaurant, 12 Salem Street.

Discussion of warrant article, proposed sale of conservation land on Route 1 North

Mr. Mullen said that the Town has been approached by the Kelly auto dealership about purchasing 9104 square feet of land in the care and custody of the Conservation Commission, which has in recent years licensed the land to the auto dealer to use for parking at the Kelly Jeep dealership. The land is upland, not wetland, and is highly desirable to the auto dealer because they are seeking to relocate their building and need to own the land, rather than merely lease it, to meet requirements. Since the land is subject to Article 97 of the state constitution, a unanimous vote of the Conservation Commission declaring the land surplus is necessary and has been achieved. A two-thirds vote of town meeting is also necessary.

The Town would have to issue a request for proposals and file an Environmental Notification Form (ENF) with the state, and demonstrate that the Town will be receiving compensatory replacement of conservation land of equal or greater area than the land being sold. Kelly has also offered to provide an access easement through the land to allow access to the other conservation land in that area; there is no such easement currently.

Marc Kornitsky, an attorney representing Kelly Jeep, said that the dealership would agree to provide a wash station for bicyclists and a monument indicating the entrance to the Bow Ridge Conservation Area, and five dedicated parking spots for recreational users as well as the dedicated access easement. Access is provided today by goodwill, not a formal agreement. The dealership has purchased adjoining land from the Lynnfield Water District, and remaining LWD land serves as a buffer from the neighborhood. If town meeting approves the sale of land, Kelly is prepared to offer \$170,000 for the purchase, which matches the appraisal undertaken on behalf of the dealer; the Town's appraisal came in at a lower figure.

The land sale will also require approval by two-thirds of each house of the state legislature, and the Executive Office of Environmental Affairs recommends that approval not be granted unless suitable replacement land is offered. Mr. Kornitsky said Peter Ogren of Hayes Engineering said that the compensatory land can come out of the 9800 square feet behind the Nissan dealership.

Selectman Barrett asked if this land acquisition would allow Kelly Jeep to move closer to the residential neighborhood along Canterbury Road. Selectman Terranova said he did not object as long as the dealership would not be encroaching on neighbors. Mr. Kornitsky said he knows of past issues regarding auto dealerships in the area affecting the neighborhood. He said the area intervening between the dealership at the neighborhood is heavily wooded, and that the Kelly dealerships are not as close to the neighbors as the Herb Chambers dealerships. He said that the parking would not change but the building would be moved 20 to 25 feet closer to the neighborhood.

In response to questions from Selectman Terranova and residents Joseph Jacoby and Jill Giugliano, Kornitsky said there would be no additional clearing of the land, the additional space would allow for better and safer access to vehicles entering the dealership from Route 1 by moving the building away from the driveway, and said that the site plan would not be completed until the Town decides whether to sell the land. He said the proposal would benefit both Kelly and the Town.

In response to a question from Ms. Campbell, Mr. Kornitsky and Mr. Boudreau said that the money received would go into the Conservation Commission's trust fund. Mr. Mullen said it is likely that Kelly will be the only one that can offer the access easement.

Selectman Barrett said he would like more information, such as an aerial photo and a site visit to see if the buffer will be adequate. Mr. Kornitsky agreed.

Brian Kelly, owner of Kelly Motor Group, said that he has worked with neighbors and will overcome any objections raised during the process. He said he does not think the neighbors will be able to see any difference from their properties. He said he has worked in the past to address concerns about light fixtures, outside speakers, and other issues. He said the building will be about 50 to 60 feet further away from Canterbury Road than the present building.

Mr. Kelly said he has a plan that would allow for the building without this land acquisition, but said it would not create the room for deceleration for vehicles when entering the lot from Route 1. Mr. Jacoby asked if Mr. Kelly has plans to introduce a fourth dealership on Route 1. Mr. Kelly said he is considering adding a small boutique dealership on the Nissan side of the property, on the Giugliano property. Ms. Giugliano said that she is sure Mr. Kelly's efforts will please the Town and the neighbors. In response to other resident questions, Mr. Kornitsky said that the land to be acquired from the Town cannot be used for a structure or to meet setback requirements under the terms of the current license.

Selectman Terranova asked to have the Planning Board weigh in on the matter. The proposal will be forwarded to the Planning Board for its review. Planning Board Co-Chair Alan Dresios asked that that board be included in the site visit. Mr. Kornitsky agreed, and said he will send a letter to neighbors notifying them of the site visit.

Redeployment of Town Hall space

Mr. Boudreau put before the Board several options for the re-use of space in Town Hall created when the School Department superintendent and business offices were relocated to 525 Salem Street.

He said the plans were developed by the Department of Public Works. Options A, B and C would expand the hearing room, but he noted the Town now has access to the larger meeting space at the Al Merritt Center at Market Street. While tonight's meeting has a large crowd, most meetings do not fill the hearing room. Expansion of the hearing room would involve renovation costs. Option D would move the Town Administrator/Board of Selectmen office into the office vacated by the Superintendent of Schools, and move the Town Accountant office into the Town Administrator/Board of Selectmen office. The Town Accountant office could be used as a small meeting room. This plan would be accomplished at little or no cost. An appropriation would be needed for other scenarios.

The first-floor plans involve moving the Planning and Conservation offices to the former School Business office space, with the DPW expanding into the space used by those departments.

All three Board members said they agreed to Option D. Ms. Campbell said that parking is a problem for meetings held at the Merritt Center.

Union Hospital update

Chairman Crawford said that he will be meeting with Governor Baker on the plans to close Union Hospital, and that he sent a letter to each member of the Health Policy Committee, which agreed to a private meeting with area leaders. He said the state requires only 90 days notice of closure, and said the governor, lieutenant governors, Department of Public Health, mayors, town administrators and municipal officials are working on the issue. He said for Partners Healthcare to close Union Hospital, it must demonstrate it can maintain its services to the area. He said he does not think this is possible. He is asking that it be kept open, or at least that it continue to provide emergency and trauma services.

Resident Linda Gauvreau said that emergency and trauma cases are routed to the facilities that offer the necessary services. Chairman Crawford said he received two e-mails from residents who said they had been treated at Union Hospital and may not have survived if they were transported to a hospital less close by. He said even if a hospital is not an endpoint for a patient, the patient can be triaged and stabilized there.

Telecommunications tower proposal for Camp Curtis Guild

Chairman Crawford said that Board members received just two hours' notice of a meeting at Camp Curtis Guild on the possible location of telecommunications towers on that property. He received information on the proposal from the state Division of Capital Management (DCAM),

which is handling the proposal. The camp is located within four communities and no information is yet available on what the location of the tower or towers within the facility may be. A permitting decision will be made on September 16, and a public hearing will be held after that date, at which the locations will be discussed. He said that the Town is already dealing with a gas pipeline and metering station proposal and he does not want a cell tower near either the existing or proposed pipeline. He said that the state devices large amounts of licensing money from telecommunications companies for location of these towers on state land.

Selectman Terranova said he was able to attend the meeting and said that more than one tower within the camp is contemplated. He raised the attempt to place a cellular tower in the Chestnut/Lowell street area and the Town's opposition. He said that this is combination with the gas pipeline proposal would be overwhelming to Lynnfield. He sent an e-mail to DCAM but found they do not have answers to his questions. He said that the National Guard will indicate where the towers cannot go on the property.

Resident Linda Gauvreau raised the issue of poor cellular phone reception in the center. Selectman Terranova said that the tower would require a backup generator as well, which can be noisy. Chairman Crawford said the Board will get more information and represent the Town's interests in the matter.

Kinder Morgan pipeline proposal

Chairman Crawford said he, Mr. Boudreau, Lynnfield Center Water District (LCWD) Superintendent Kenneth Burnham and State Rep. Bradley Jones met with Kinder Morgan representatives and discussed routing, protection of water supply, and other issues. He said he also discussed routing issues with John Gavin of NVS Group, a company hired by Kinder Morgan engaged to discuss the route with affected neighbors. After hearing from residents contacted in this effort, he called Mr. Gavin and discussed the desirability of moving the route away from homes on Glen Drive and avoiding eminent domain takings, and the presence of an existing electrical easement that could be utilized. As a result, the proposed pipeline was re-routed to follow the existing easement across North Hill Drive through LCWD land, 1500 feet from existing wells. In a recent meeting it became clear that the proposed pipeline route would be close to planned future well sites, and there has been a discussion of moving the pipeline again, closer to North Reading along the rail bed, which would be 4,000 to 5,000 feet from existing wells and 15,000 feet from future wells.

Chairman Crawford said that these efforts do not mean he or the Board is condoning or endorsing the pipeline. The goal is to have input into the route if it is approved while opposing the entire project along with other communities.

Chairman Crawford proposed the Board take three measures: vote to oppose the pipeline, vote to join the Northeast Municipal Gas Pipeline Coalition, and applying to be an intervener with the Federal Energy Regulatory Commission.

Chairman Crawford read a letter from State Rep. Bradley Jones Jr. expressing concerns about several aspects of the pipeline and seeking hearings within this district. Chairman Crawford said he asked Kinder Morgan to come to a meeting in Lynnfield, and they agreed to hold an open house here in October. He said the proposed pipeline directly affects six or seven properties in Town. He has also asked LCWD Superintendent Burnham to attend the October 5 meeting of the Board to discuss how the pipeline will affect the water district.

Chairman Crawford read the proposed resolution opposing the pipeline (see attached document). On the motion of Selectman Terranova, duly seconded by Selectman Barrett, the Board voted unanimously to approve the resolution stating the Board's opposition to the proposed Kinder Morgan pipeline.

Ms. Campbell said that the gas company should address the documented leaks in existing pipes in order to address demand, safety, environmental and cost issues. She said the leaked gas could heat 200,000 homes per year. The Town should demand that all existing leaks be fixed before a permit is granted for a new pipeline. She also expressed concern that the route was addressed with individual neighbors affected rather than the entire community.

Selectman Terranova asked that representatives of National Grid be placed on an upcoming agenda to address gas leaks in Town. Mr. Boudreau said that Kinder Morgan brings gas in to the area and National Grid is one of the distributors. He said he will get in touch with National Grid about their existing pipelines. Moderator Arthur Bourque suggested one way to get National Grid's attention is by holding off granting street opening permits until they address the leak issue. Selectman Barrett said he agreed with this suggestion. Mr. Boudreau noted that cutting off street permits would also prevent residents seeking gas service from obtaining it.

Resident Katy Shea thanked the Board for its actions, and said she was happy to see the Board members working collaboratively. She discussed a recent meeting held in Peabody that Selectman Terranova attended. She urged the Town to stand together on this issue and noted she had posted a link on her blog, Lynnfield Transparency, to a Boston Globe article regarding opposition to a proposed gas pipeline in the West Roxbury area, as well as other information related to these issues. That pipeline is being proposed by Spectra, a different company, and that FERC could decide to permit both pipelines. Ms. Shea said Peabody is seeking to have a FERC hearing in that city;

Mr. Boudreau said that FERC may permit both pipelines and let the marketplace decide. He said that State Rep. Jones and U.S. Rep. Seth Moulton are seeking to have FERC hearings in the Sixth Congressional District. Ms. Shea said Selectman Terranova has held local citizen meetings about the pipeline and said that while moving the pipeline closer to the North Reading line might help Lynnfield residents, it could be of concern to North Reading residents and the best case scenario would be stopping the pipeline entirely.

Chairman Crawford said the next step would be for the Town to join the Northeast Municipal Gas Pipeline Coalition.

On the motion of Selectman Terranova, duly seconded by Selectman Barrett, the Board voted unanimously to join the New England Municipal Gas Pipeline Coalition to protect the Town, its real estate values, water supply and children, with Selectman Terranova to serve as the Town's point person.

Chairman Crawford said that the third motion the Board should pass tonight is a motion directing that the Town file to become an intervener in the FERC permitting process for the proposed Kinder Morgan gas pipeline. He read the proposed legislation (see attached exhibit). He said it was based on a template provided by the coalition, and said that the Town cannot file to be an intervener until Kinder Morgan formally files its proposal with FERC.

Selectman Terranova said that now that the Town is a member of the coalition, it will be able to host a meeting of the coalition, and that this demonstrates that the Town supports the coalition's efforts in opposition to the proposed pipeline. He said many people will be attending the community meeting he has organized on the pipeline project tomorrow.

On the motion of Selectman Terranova, duly seconded by Selectman Barrett, the Board voted unanimously to approve a resolution to direct that the Town stand ready to file to become an intervener with FERC in the matter of the proposed Northeast Energy Direct Kinder Morgan pipeline project.

Chairman Crawford said that the Board would take up the matter of the Kinder Morgan pipeline at the October 5 meeting. Selectman Terranova said he has been attending regional meetings about the pipeline and will hold his second community meeting on the topic tomorrow night. Attending will be representatives on the Ipswich River Coalition and a presenter on alternatives to the pipeline. Resident Heather Keane asked if the Conservation Commission was invited to attend. Selectman Terranova said members were invited but said they will not attend any such meetings until they receive an official proposal. He said Mr. Burnham indicated that the Environmental Protection Agency will not allow the placement of a pipeline within 400 feet of a proposed well. He said many people in Town have serious concerns about safety regarding the pipeline.

Mr. Boudreau said that the Conservation Commission is a regulatory board and should not weigh in until there is a filing before them, as this would give a petitioner the opportunity to show they were prejudiced against the proposal and file for constructive approval of the project. He said that the Department of Public Utilities has approved 20-year contracts for the purchase of gas, and said the Attorney General may appeal. The coalition may oppose the proposal before the Supreme Judicial Court as the pipeline is to go across conservation land protected under Article 97 of the state constitution, which would require approval of two-thirds of the legislature. The open question is whether the federal law allowing utility companies to utilize eminent domain takings will trump the state constitution.

Discussion of Perley Burrill site

Selectman Terranova said that due to a previous professional relationship with the owner of Perley Burrill, he was recusing himself from this discussion in order to err on the side of extreme caution. Resident Joe Duhaime asked why Mr. Terranova had participated in previous discussion of the matter 14 months ago. Mr. Terranova said that after reflecting on the situation, he had decided to recuse himself out of extreme caution. He then left the room.

Resident Denis Ritchie expressed concern that a sitting Board member would have participated in an executive session regarding a client who could have obtained access to confidential information regarding litigation. He asked if this was illegal. Chairman Crawford said he did not know about the legalities of it. Mr. Duhaime said he had another statement. Chairman Crawford asked that Selectman Terranova return to the room to be given an opportunity to address these questions. Mr. Duhaime asked why Selectman Terranova did not recuse himself from the executive session and another open meeting in which Perley Burrill was discussed. Selectman Terranova said that he had done everything he had to do in this situation; in the two early meetings in which he participated, he was going against the interest of the owner of Perley Burrill, and that if anything, Mr. Duhaime should be thanking him. He reiterated that he was recusing himself out of extreme caution. Mr. Duhaime said Selectman Terranova should have recused himself from those early meetings. Selectman Terranova said he does not think so. Selectman Terranova then left the room.

Mr. Duhaime asked the Board about the current status of Perley Burrill. Chairman Crawford acknowledged that there has been little change in the last few months. Local developer Michael Touchette is working on the property. There are dilapidated buildings with asbestos which constitute a health and safety hazard. The fuel tanks have been removed from the property. At this point Bank of America, a creditor of Little Joe Realty Trust, the property owner, refuses to release its liens on the property. Chairman Crawford has asked for a meeting with State Rep. Jones, Bank of America, and Joseph Brodigan, the property owner's lawyer, to attempt to resolve the situation. The Town is owed about \$160,000 in back taxes and penalties on the property, which under law it cannot forgive. Bank of America's lien is about \$1 million.

Mr. Ritchie asked if the property has been cleared by the Environmental Protection Agency. Chairman Crawford said that if the property is found to be clean, Bank of America will step in and take control of the property, so the would-be buyer will not pay for an environmental analysis. Global Oil is another lien holder and would provide a release, as once other creditors are paid there would be no value for it to recoup. Ms. Shea asked what the plan for the land is. Chairman Crawford said that Mr. Touchette is interested in building houses on the land. The present owner has no money, and Mr. Touchette paid for the tank removal. Bank of America's lien stands in the way of any progress.

Selectman Barrett said that the Town is first in line among creditors and has leverage. He said if this eyesore were in the town center, it would not be tolerated. He said the Town should make an investment and tear the buildings down, and could recover costs upon the sale of the land.

Chairman Crawford said he discussed this matter with town counsel and Mr. Boudreau. The Town is trying to avoid becoming responsible for an unknown environmental liability which could be extremely costly to address. He said it may be possible to take the buildings down without incurring that liability, but once the Town digs into the ground, it becomes responsible for any environmental issue that is discovered.

Mr. Boudreau said tearing down a privately owned building is an involved process and abating the asbestos would be expensive. He said he will have town counsel look into the matter. Mr. Ritchie suggested having the Board of Health determine it is a public safety risk and encapsulate it. Mr. Duhaime asked the cost of cleaning up the property. Mr. Boudreau said the extent of past contamination is unknown. The cost of tearing down the one larger building is estimated at \$40,000 by a private contractor; the Town would have to pay \$60,000 or more as it is subject to the prevailing wage law and other costly regulations. Mr. Duhaime said there are rodents on the property and that the condition of the property is bringing down property values in the neighborhood. He would like to see the buildings razed and said the neighbors have waited too long.

Mr. Boudreau said that matters will move quickly if the bank issues its release. If this does not happen, taking down these buildings will be a long process. The Town could seek an appropriation for that purpose in the spring. Selectman Barrett suggested moving along these two courses in parallel to save time. Chairman Crawford agreed.

Ms. Campbell asked about contaminants on the property. Chairman Crawford said that a small past fuel spill was discovered when the tanks were removed. The condition of the rest of the property is unknown. Ms. Campbell related the environmental cleanup issues that ensued due to a decades-old fuel spill at the present Pump'n Pantry site on Main Street. Chairman Crawford noted that Perley Burrill's operated as a gas station in a time when there were no environmental regulations.

Resident David Battaglia said that the structures are a fire hazard and he hopes the Board will expedite the matter. Ms. Keane urged South Lynnfield residents to stand together and said she trusts the Board and the town administrator to do the right thing. Mr. Boudreau said that this is issue is a top priority and that the quickest solution would be for Bank of America to release its lien, allowing Mr. Touchette to purchase the property, pay off the taxes owed, and develop two to three houses on the property. He said that the land, if clean, is worth more than the Town is owed. Discussion ensued about whether a third lot would be allowed by right and whether there was sufficient frontage for this purpose. Selectman Barrett said if the Town could take the property, it could be used for a park for South Lynnfield, which lacks one.

Mr. Boudreau said he will discuss the options with town counsel tomorrow.

Selectman Terranova rejoined the meeting.

Town Accountant/Assistant Finance Director search process

Mr. Boudreau said that Town Accountant/Assistant Finance Director Julianne McCarthy has accepted a position in another community and will serve her last day on October 6. The Assessing Manager position is also open. The Town is trying to close the Fiscal 2015 books and set the tax rate and get tax bills out. Mr. Boudreau suggested that he conduct preliminary interviews and provide the Board with three candidates to interview. He noted other municipalities have had a hard time filling this position. Ms. McCarthy has agreed to come back on Fridays to help, and the Town may bring in a retired town accountant also. He said the Board could expect to see finalists some time in October.

Selectman Terranova said he would like to see all the resumes submitted and have Mr. Boudreau reduce the field to six candidates, not three. Mr. Boudreau suggested that there may not be six qualified candidates and suggested that the Board direct him to submit the names of at least three candidates as finalists.

On the motion of Selectman Terranova, duly seconded by Selectman Barrett, the Board voted unanimously to direct the town administrator to perform the initial screening of candidates and forward at least three finalists to the Board.

Opening of fall town meeting warrant for submission of articles

On the motion of Selectman Terranova, duly seconded by Selectman Barrett, the Board voted unanimously to open the fall town meeting warrant for submission of articles. Chairman Crawford said the warrant will be open until it is closed on October 2, 2015 at 8:00 a.m.

Selectman Terranova presented a petition article with 10 or more signatures of Lynnfield registered voters as certified by the town clerk's office. He explained that this article would ask town meeting to vote to amend the town charter to change the number of members on the Board of Selectmen from three to five. Mr. Boudreau said the method used in the article would require passage by majority vote at town meeting and by a two-thirds vote of both houses of the state legislature and signature by the governor. Selectman Terranova said the article had been reviewed by town counsel.

Chairman Crawford said this proposal comes with no reasoning, no prior discussion, and no public meetings and will not require a vote at the ballot, and would circumvent the usual processes. Ms. Campbell asked if Selectman Terranova was advised by town counsel whether he had the option of seeking passage through the process that includes a vote at the ballot. Selectman Terranova said he did not recall the exact details, but said his goal was to have this measure take effect as soon as possible.

Selectman Terranova said this came in response to voter frustration. He and Ms. Campbell said the Board has overridden town meeting twice.

Chairman Crawford said that is not true that the Board ignored two votes taken by town meeting, on the laying out of Market Street as a public way

and presenting two budgets to town meeting. Chairman Crawford said that the selectmen did not overrule town meeting in either of those issues. Selectman Terranova said he spoke to over 100 people and only two had negative comments. Selectman Barrett and Chairman Crawford said they heard from many people who opposed this proposal.

Chairman Crawford said that as few as 200 people could participate in the vote on this article, as fall town meeting is not always well attended. He said even if there are 400 people in attendance, the votes of 200 in favor could send this to the legislature to change the Town's charter. He said the usual procedure is a two-step process of approval at both a town meeting and a town election. Selectman Terranova said this approach was reviewed by town counsel and is proper.

He said he chose this route because residents want this to take in effect as soon as possible. In response to a question by Ms. Campbell, Mr. Boudreau said that the law allows for a vote of town meeting and a town election, or by town meeting and the legislature. Ms. Campbell said a vote of town meeting is a Town vote.

Selectman Barrett said he would have liked to have heard from the town administrator that something of this magnitude was being undertaken; he said he heard about this plan only when the petition was circulated and he received phone calls from residents about it. He said he has positive feedback since he was elected to the Board. He asked how this measure would benefit the Town. Selectman Terranova said that this change would address the changing dynamics in Town, with the Market Street project, traffic and other issues, and would have more selectmen in the community interacting with the residents and representing their concerns.

Selectman Barrett said that the Board is not broken and such a major change should not be acted upon within one month. Selectman Terranova said the School Committee, on which Selectman Barrette served previously, has five members and noted that Selectman Barrett said that he enjoyed the ability to discuss matters with another member without violating the Open Meeting Law. Selectman Barrett said members of three-member board can share ideas as well, but through the town administrator. Selectman Terranova said he has questions about that opinion. Selectman Barrett said a study should be done before the Town is asked to vote. He said a committee of former selectmen and other town officials could be put together. Selectman Terranova said he was asked to put this measure forward by voters who want change and want their voices to be heard.

Chairman Crawford asked why if the concern is having people being heard this would not be placed on the ballot. Selectman Terranova said the voters will be able to vote at town meeting. Selectman Barrett said such a significant change should be studied. He said it would be a courtesy to have informed his fellow Board members of this issue. Selectman Terranova said that he was unaware that Chairman Crawford was discussing the pipeline route with Kinder Morgan. Chairman Crawford said selectmen can work on issues individually.

Selectman Barrett said it is easier for voters to change a three-member board with which they are dissatisfied than a five-member board. Selectman Terranova said that it made no sense that the five-member School Committee is an effective body but a five-member Board of Selectman would be a disaster. Selectman Barrett said his point is that it should be studied first. Chairman Crawford said that five-member boards in Saugus and North Reading have significant issues and are dysfunctional.

Ms. Shea said spirited debate is good, and listed a number of local communities that have five-member boards of selectmen. She said a five-member board has been discussed for a long time. She said that there was a tremendous turnout in the most recent election, in which Mr. Barrett was elected by a small 35-vote margin over her. She said that the Board has been two against one, and that the tradition of electing the selectman is his third year to serve as chairman was not observed after the election. Ms. Shea said people want more representation and the Town is changing, that town meeting is very important. She said that the organizers have hundreds of signatures.

Resident Ellen Crawford asked for clarification on whether the Board overruled town meeting and asked whether it was legal to have petitions circulating in Town Hall and the public schools. Mr. Boudreau said that nomination papers may not be circulated in municipal buildings but said that circulating petitions are not illegal. Ms. Crawford questioned whether people knew what they were signing as the petition was being passed along.

Chairman Crawford said no town meeting vote has been overturned, and that this is a myth Selectman Terranova and Ms. Shea have perpetuated for their own benefit. He said these matters were handled properly by the Board.

Ms. Keane said that the emotion has to stop and Board members and townspeople have to work together for the benefit of the Town, and talked about the Board being divided two to one. Chairman Crawford said that hundreds of votes have been unanimous, and have been 2-1 on other occasions. She said the people should decide on this issue. Selectman Barrett said voters rejected a plan to change the charter and bylaws was rejected recently and that he is confident town meeting will reject this measure as well. He said his hope is that there would be more thought about a change of this magnitude. Ms. Keane said people are seeing a lot of agitation.

Resident Regina Hohmann said that the opposition she is hearing makes her wonder why they would be opposed when other towns have five selectmen. Selectman Barrett said his concern is that this is being brought to town meeting without any study. Ms. Hohmann noted that Ms. Shea provided a list of other communities that have five-member boards. Selectman Barrett questioned whether that was reason enough to make the change. Ms. Hohmann said that she spoke to people who are baffled why Lynnfield has only three members. Chairman Crawford said many communities have three and are happier with that. Ms. Hohmann said that a little diversity would be a good thing.

Mr. Ritchie said that it would be netter to review the charter fully rather than trying to rush this change through. He said data should be collected so that people can make an informed vote. Chairman Crawford said that changes of this magnitude should be done through a Charter Review Commission, which would bring its recommendation to town meeting and a town election for ratification.

Chairman Bourque said he served as a selectman for 12 years and attended conferences for municipal leaders who would discuss how well Lynnfield was managed versus other communities that had difficulties with five- and seven-member boards because they are cumbersome and slow. He said every time a charter change has been proposed in the past, a committee was formed to study the matter. He said for many major issues, such as the fields project, the Market Street proposal, a committee was formed. He said the charter has not been revised significantly since 1971 because there has not been a need. He said if members of the Board are not getting along, they should try to work out their differences. He said that he expects Ms. She will seek on of the new seats and that Selectman Terranova will run for re-election and that they will seek to find a third member of their group to seek the other newly created seat. He is tired of the name calling in Town about alleged corruption in Town Hall and a blog that he said assails the character of Town officials and works to the benefit of one individual. He said this is an effort to further the desire of one small group rather than the entire community and urged the Board to do whatever it can to oppose the efforts to create a five-member Board of Selectmen.

Resident Karin Round said she was alarmed to see such a major change to Town government brought up at such a late hour in front of a small audience. She said that she strongly recommends that the proposal, to which she has no objection to, be considered seriously and that the process of include passage by both town meeting and town election. Selectman Barrett said he agreed.

Mr. Ritchie asked when five percent of the Town can determine something for the other 95 percent.

In response to questions from Selectman Barrett, Mr. Boudreau reviewed the two routes by which the charter can be amended under state law. He said the most recent change in Norwell, where he previously worked, involved a charter commission and the two-step local approval process of a town meeting and a town election.

Ms. Campbell said she has been discussing a charter review for five years with various people. She said that the master plan was not passed by town meeting. She said there is too much work for three selectmen with all the issues such as Perley Burrill, Union Hospital and the Kinder Morgan pipeline. She said two members of a five-member Board can work together one something, unlike a three-member Board, and not violate the Open Meeting Law. She said too much is delegated to the town administrator, as all three selectmen work and have families. She raised a number of issues the Town is currently facing. She said there is too much secrecy and there needs to be more people working together. She said that going to five selectmen is a start toward a charter review. She said the charter requirement that annual and fall town meetings can only be held on Mondays should be reviewed as well.

Selectman Barrett said while he supports a three-member Board, if the Town wants a five-member Board of Selectmen he will support it. He said he agreed that the Town should consider having town meetings on Saturdays when more people may be able to attend. He said that the larger point is that these issues should be part of a full charter review process. He warned that people should be careful about what she wishes for.

Chairman Crawford said that he disagrees with most of what Ms. Campbell said. He said that he has enough time to do the work of the Board as one member. He said the implication is Selectman Terranova, who supports the effort, does not. Ms. Campbell said that was not what she said. Chairman Crawford said that a five-member Board could create a lack of transparency and Open Meeting Law issues if two members talk, and one of those members talk to another member, and allowing two members to discuss matters privately.

Resident Beverly Merritt asked Selectman Terranova to explain why he opposes sending the matter to the ballot. He said that people want change. He said she would ask the people who want the change her question of "what's the rush?" She asked if the voters should not have a chance to make this decision, noting that not everyone can attend a town meeting, but can vote in an election even if they are not available that day, through the absentee ballot process.

Ms. Hohmann asked Selectman Barrett why is opposed to expanding the membership of the Board. Selectman Barrett said he has already answered that, but he said he believes a three-member Board is a more effective structure. He said of the communities listed by Ms. Shea would rather be Lynnfield, and said he is proud of Lynnfield.

He said the larger point is that the Town should be careful and study the issue rather than rushing to a vote in one month's time. He asked her what the rush is. She said that she did not see any disadvantage to having more people involved as Board members.

Chairman Crawford said that the article would go on the warrant as it was submitted according to the proper procedure.

Selectman Barrett said a town official told him that he was told all three Board members supported this proposal, and that that officials told him he understood when it was proposed that it would have to be ratified at a town election. Mr. Boudreau said that was not the case. Mr. Boudreau said the legislature could require that the matter be put on the ballot, and said that while this article cannot be changed, it could be amended on the floor as with any other article. He said if the proposal is passed by town meeting and the legislature, there would be three seats open at the next town election in April of 2016: Selectman Terranova's seat and the two new seats. If the matters was approved by town meeting with the requirement that

it be sent to the town election, the April 2016 election would have one seat, Selectman Terranova's, up for election, and a question on whether voters would approve the proposed charter change.

Mr. Boudreau was asked by about Norwell changing from three selectmen to five selectmen. He said that whether the change was an improvement or not depends on whom you ask. He said the quality of the people who serve on the board are more important than the number of members.

Administrative matters

On the motion of Selectman Terranova, duly seconded by Selectman Barrett, the Board voted unanimously to approve the use of the South Fire parking lot for a car wash to be held on October 3, 2015 with a rain date of October 4, 2015.

On the motion of Selectman Terranova, duly seconded by Selectman Barrett, the Board voted unanimously to approve a one-day liquor license for November 12-16 for a fundraising event being held by the Wakefield-Lynnfield Chamber of Commerce and the Friends of the Lynnfield Library on November 14. This is a change from the October date approved at a previous meeting.

The Board put off consideration of the draft minutes of August 17, 2015 as Selectman Terranova and Chairman Crawford wished to submit changes.

Chairman Crawford thanked the library for hosting a recent reception and Rev. Dennis Bailey, Fire Dept. Chaplain, and all who attended the 9/11 remembrance.

On the motion of Selectman Barrett, duly seconded by Selectman Terranova, the Board voted unanimously to adjourn at 11:00 p.m.