

Board of Selectmen Minutes 01/05/2015

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Board of Selectmen	January 5, 2015
Regular Meeting	Selectmen's Hearing Room, Town Hall

Present:	David Nelson, Chairman
	Philip Crawford, Selectman
	Thomas Terranova Jr., Selectman

Chairman Nelson called the meeting to order at 7:00 p.m. He announced that the meeting was being taped for cable television transmission and led those assembled in the Pledge of Allegiance. He also welcomed James Boudreau, the new town administrator.

Recreational fields project update

Fields Committee Chairman Arthur Bourque III provided an update on the recreational fields project. He welcomed Mr. Boudreau and thanked outgoing Town Administrator William Gustus for his efforts on behalf of the fields project and his other achievements, expressing his deep gratitude for his service.

Mr. Bourque said the project at the high school is substantially complete. The baseball and softball fields have been turned over to the Town by the contractor and will be ready for play in the spring. Landscaping was washed out twice in the fall due to heavy rain, and the contractor agreed to stop for the season and return in March to complete this work. Batting cages and the bullpens will also be installed in the spring. The hydroseeding done this fall will germinate in the spring and will be redone if it fails. Shrubs are in place. Mr. Bourque said he was extremely pleased with the outcome of this project.

Mr. Bourque said work on the amenities building started slowly, but that the contractor worked through issues with the architect and building inspector and has addressed a brief punch list. Seating and shelving were delayed in delivery and when they arrived, were incorrect. When corrected items were delivered, the support structure was missing. He said he expects these items to be installed by the end of the week, and that when the architect re-inspects the building, it will be signed off and turned over to the Town.

On the matter of project finances, Mr. Bourque said that the Town had a \$50,000 contingency on the amenities building and processed about \$12,000 in change orders. Approximately \$5,000 in additional change orders are expected, which will result in \$31,000 being available. The Fields Committee received complaints that rooms in the building are very cold and is considering ordering electric heaters for four or five rooms, at a cost of \$3,000 to \$4,000 each.

On the athletic fields portion of the project, the Town had a \$269,000 contingency. The Town had to expend \$100,000 on additional drainage work at the field site to address pre-existing but previously unknown conditions. The Town had \$382,000 in change order, but Mr. Gustus and Selectman Crawford secured a \$141,000 credit for topsoil removed and loam from the site, resulting in a net change order amount of \$241,000. Additional amounts were spent toward corner flags for soccer, a gate, a groomer and other items, leaving a balance of \$87,009.

In engineering testing and design, costs were much higher than anticipated due to the nickel in the soil. The Town paid \$100,000 to the environmental firm addressing this issue through testing and soil stockpiling and removal, as well as \$125,000 to the engineering firm. There is also a need for outfield fences, at a cost of \$30,000 to \$40,000. The fences will be temporary so that they can be removed to convert these fields for other uses when necessary. The Town still retains sufficient funds for this need and any others that might arise. An additional appropriation will not be needed for the high school project. He thanked Dick Shafner for supplying aerial photos documenting the project's progress and he said the contractor will remove debris left in the parking lot.

Selectman Terranova asked if a special outfield fence is required for the artificial turf surface. Mr. Bourque said that the fence has to sit on the turf and will only be four feet high. He said they are looking at ways to provide necessary safety padding. He said purchase of a padded fence would be \$59,000 for one fence, which is cost-prohibitive.

Selectman Crawford thanked Mr. Bourque for his hard work and said it would not have been completed without his time and effort, making daily decisions and finding issue and errors and working to correct them. Chairman Nelson said Mr. Bourque ran a tight ship and was very passionate about the project. Selectman Terranova thanked Mr. Bourque and commended him and all the volunteers who worked on the project. Mr. Bourque said seeing young people using these fields gives him a great deal of satisfaction. Mr. Gustus asked if the Town has any retainage on the project. Mr. Bourque said the Town is holding \$120,000 until completion of the project, which he said is more than adequate to ensure its completion. He said the contractor will be providing comprehensive as-built plans, and that any funds left from the project would be available for monitoring wells and the outflow valve. Mr. Gustus commented that this is one of the swiftest projects with which he has been involved.

Public hearing, all-alcohol restaurant license, SMJ Lynnfield, LLC, dba Gaslight, 1100 Market Street, Jeffrey Gates, manager

Chairman Nelson declared the public hearing on the above-listed matter open and read the hearing notice, duly posted and advertised in the Lynnfield Villager. He noted that the applicant is also seeking common victualler and weekday entertainment licenses.

Attorney Matthew Kimball, of Kimball and Kimball of Lynnfield, appeared representing the applicant and said that the abutters were notified and the hearing advertised in conformity with the law. He said Gaslight will feature fine casual dining in a 7,000- square-foot footprint, with 250 seats inside the building and another 80 in a covered patio. A July 15 opening is anticipated. Mr. Gates worked 17 years at Davio's, rising from dishwasher to manager. He was involved in opening Mistral Bistro in Boston and spent 14 years as a partner at the Aquitaine Group, which operates seven restaurants. All front-house staff is or will be TIPS and ServSafe trained. There are no disciplinary actions taken against any of the restaurants for which Mr. Gates is responsible.

Mr. Kimball said the weekday entertainment license request is for recorded or broadcast background music, four television sets and a live band for functions.

Mr. Gates said that he looks forward to serving Lynnfield. He said the only use of live musicians would be for brunches and weddings. He said he was one of three partners in the company and will be on site for the opening of the restaurant, which will be the largest the group has opened.

In response to questions from Board members, Mr. Gates said the entertainment would be inside only, that he will be in touch with Market Street general manager Nanci Horn, and that he wants to be a good neighbor to Lynnfield and attract local business. The outdoor seating will be separated from the common areas by a black wrought-iron grating with plantings, with the only entrance by the host stand. There will no perhaps one outdoor television, but the sound will be muted. The outside seating will generally be open May through September. There will be heaters for that area. The sounds will be inside the restaurant and the restaurant bar will have 18 seats. The liquor for the outside patio will be stored in a roll-away device that can be locked.

Chairman Nelson said that the lack of disciplinary actions against his restaurants shows that his group is on top of things. Selectman Crawford said that he has been to the restaurants mentioned by Mr. Gates and they are very nice and quite busy. He said townspeople want to make sure that employees serving food and alcohol are TIPS and ServSafe trained, and are concerned about keeping noise inside and at a minimum. He noted the location of this restaurant within the development is away from residential areas.

Chairman Nelson said the restaurant will be a good fit for Market Street and urged Mr. Gates to meet with Ms. Horn. Selectman Terranova said the application looked fine to him. Chairman Nelson sought audience input. There was none.

On the motion of Selectman Terranova, duly seconded by Selectman Crawford, the Board voted unanimously to approve an all-alcohol restaurant license for SMJ Lynnfield, LLC, dba Gaslight, 1100 Market Street, Jeffrey Gates, manager.

On the motion of Selectman Terranova, duly seconded by Selectman Crawford, the Board voted unanimously to approve a common victualler license for SMJ Lynnfield, LLC, dba Gaslight, 1100 Market Street.

On the motion of Selectman Terranova, duly seconded by Selectman Crawford, the Board voted unanimously to approve a for SMJ Lynnfield, LLC, dba Gaslight, 1100 Market Street for recorded music, four television sets, and live music limited to the interior of the restaurant.

Chairman Nelson declared the hearing closed.

Public hearing, all-alcohol restaurant license, Wahlburgers Lynnfield, LLC, dba Wahlburgers, 600 Market Street, Paul J. Wahlberg, manager

Chairman Nelson declared the public hearing on the above-listed matter open and read the hearing notice, duly posted and advertised in the Lynnfield Villager. He noted that the applicant is also seeking common victualler and weekday entertainment licenses.

Attorney Matthew Kimball, of Kimball and Kimball of Lynnfield, appeared representing the applicant and said that the abutters were notified and the hearing advertised in conformity with the law. He said the entertainment license seeks approval for background music and six televisions. He said the restaurant will feature burgers, sandwiches, salads, appetizers and other fare. The restaurant footprint will be 4500 square feet, with 114 seats inside the restaurant and 32 seats in the covered patio. They are hoping to open in the spring.

Attorney Karen Simao, of McDermott, Quilty and Miller, also representing the applicant, said that Wahlburgers is seeking to open new locations in the Fenway area of Boston and Lynnfield. The Hingham location has a full liquor license. The onsite owner-manager and staff have extensive restaurant experience. All staff will have TIPS, ServSafe, CPR and Chokesavers training, as well as in-house training on a regular basis. The owners have no history of violations in any of the restaurants they operate.

Mr. Wahlberg said the he looks forward to opening in Lynnfield and wants Wahlburgers to be part of the community. He said he has been involved in the restaurant business for 30 years, in roles ranging from dishwasher to owner.

In response to questions from Board members, Mr. Wahlberg said he was not seeking a license for live entertainment at this time, although at some point he might seek approval for a guitar player or some other smaller musical act. He said the staff has very strict guidelines on alcoholic service and are very well trained. He said that orders for adult frappes with alcohol content go through the bar and that precautions are taken to ensure minors are not served them. He said that the outdoor patio would be separated from the common area by a brick wall or wrought-iron fence with a gate, explaining this is still in the design phase. He said that any recorded music on the patio would be for background use only. He confirmed that there will be 20 seats at the bar.

Selectman Terranova asked if the staff would be trained in crowd control. Mr. Wahlberg said that he did not think it would be necessary due to the smaller size of this location. He said that all involved understood the need to be good neighbors.

Chairman Nelson asked for public comment. Resident Katy Shea referenced the Wahlburgers television show and said her sister, a regular viewer, liked Mr. Wahlberg's mother the best, a sentiment with which Mr. Wahlberg agreed.

Chairman Nelson said he believes Wahlburgers will be a benefit to Market Street. Mr. Boudreau said he has been to two of Mr. Wahlberg's locations.

On the motion of Selectman Terranova, duly seconded by Selectman Crawford, the Board voted unanimously to approve an all-alcohol restaurant license for Wahlburgers Lynnfield, LLC, dba Wahlburgers, 600 Market Street, Paul J. Wahlberg, manager.

On the motion of Selectman Terranova, duly seconded by Selectman Crawford, the Board voted unanimously to approve a common victualler license for Wahlburgers Lynnfield, LLC, dba Wahlburgers, 600 Market Street.

On the motion of Selectman Terranova, duly seconded by Selectman Crawford, the Board voted unanimously to approve a for Wahlburgers Lynnfield, LLC, dba Wahlburgers, 600 Market Street, for recorded music and six television sets.

Chairman Nelson declared the hearing closed.

Public comment

Local resident Michael Walsh asked if the chairman would allow the public to address the Board. Chairman Nelson agreed. Mr. Walsh then approached the Board and handed the three board members, Mr. Gustus and Mr. Boudreau a document he described as a subpoena related to an open meeting law complaint he had lodged against the Board. Selectman Terranova asked if there was any additional information regarding the matter. Mr. Walsh said that a lengthy complaint would be forthcoming.

FY 16 budget review: Inspectional Services

Building Inspector Jack Roberto presented the Inspectional Services FY16 operating budget request to the Board. He said most line items are unchanged. He said that due to the additional businesses located at the Market Street development, and the prospect of several additional businesses in Phase II of that development, he is seeking an increase in the salary line for the sealer of weights and measures from \$2400 to \$6500. Mr. Gustus explained that this will correlate with an increase in fees collected, as the inspector is paid the amount of fees he collects.

Chairman Nelson asked about an increase in vacation replacement salaries for inspectors. Mr. Roberto said the additional funds are sought due to the need to have replacement inspectors on hand due to increased workload. He said the Town has seen an increase of 20 percent in permit fees collected and permits issued since the inspectors were regionalized. He clarified that this is above and beyond the increased inspections and permits required due to Market Street. Wakefield, with whom Lynnfield shares inspectors, will pay its share of the vacation replacement cost. Mr. Roberto said that the shared inspector model has worked well, to which Selectman Crawford agreed. Mr. Roberto said contractors and residents have learned they can call the inspectors at either the Lynnfield or Wakefield town halls and that the inspectors have designated hours at each. He has received no complaints about these inspectors.

Selectman Terranova said that Mr. Roberto is extremely attentive to people's needs and works very diligently for the Town. He said the request for additional funds for the sealer of weights and measures is reasonable because the funds flow from the fees. He asked about the need for additional vacation replacement hours. Mr. Roberto said that due to the additional workload, he is bringing in replacement inspectors during week-long vacations for three days instead of two. He said that the Town is seeing small subdivisions as well as a number of tear-downs of older homes and rebuilding of new ones.

Mr. Roberto said that the shared inspectors attend seminars, and sometimes must attend two separate seminars due to difference between regulations in Middlesex County, in which Wakefield lies, and Essex County, in which Lynnfield lies. He said that Lynnfield's inspectors are of high quality.

Board members thanked Mr., Roberto for his presentation.

FY 16 budget review: Board of Health

Health Director Kristin Esposito McRae presented the Board of Health FY16 operating budget request. She said the request matched what she had discussed at the December Budget Summit. She described the budget as a level-service budget that includes the two-percent wage increase consistent with Town policy. She said the public health nurse line item was in the red, but said that as long as the nurse's work on flu clinics is

properly charged to the revolving account for flu immunizations, there should not be an issue going forward. In the long term, she said, she has to look at this portion of the department.

In response to questions from Board members, Ms. McRae said that one of the contracted sanitarians works one day per week. She said in the past she used to hold off employing the contracted sanitarian until there was sufficient work, but she said with Market Street and other factors, the workload is increasing. She said the department conducts about 80 septic site inspections per year. She noted the Town does not incur the cost of benefits for contracted inspectors. She said the budget request is "no frills."

Mr. Gustus said that the total request is \$116,676, about a 1.5 percent increase from the current budget. Selectman Crawford said that is a reasonable request, with the heavy workload related to the second phase of Market Street on the horizon. He said that percolation tests for septic sites can take several hours.

Ms. McRae said her capital budget request will include a work station for the clerk and a long table to accommodate large plans, at a cost of about \$3,500.

Selectman Terranova asked if the \$1500 line item for beaver removal would be adequate. Ms. McRae said that the Town incurs a cost of \$500 for every trapping event, which is supposed to be the last resort. The Department of Public Works does its best to exhaust other measures to prevent beaver dam-related flooding. If there is a difficult year, she may have to pull funds from other expenses for this purpose.

FY 16 budget review: Department of Public Works

Public Works Director Andrew Lafferty presented the Department of Public Works (DPW) FY16 operating budget request. The request would result in a 6.04 percent increase in the DPW operating budget over the current year.

Under administration, which would increase by 4.9 percent, union and non-union employee salaries are increased according to existing agreements and direction from Town administration, and fuel oil is increased by three percent.

The highway, cemetery, parks and trees division would see an increase of 18.67 percent. Contracts with the DPW bargaining unit call for an increase of four percent. All contracts entered into by the Tri-Town consortium will be extended in March, with escalators for asphalt and fuel costs. These are working well for the most part, but the consortium must compete with other communities and the state for the time of the contractors in scheduling work. The request includes \$130,000 to supplement the state funds received for road construction under Chapter 90. An additional \$21,500 is requested to address drain cleaning and storm drain system repair. There will be some drain work being done in-house through the operating budget; the capital request will include funding for larger issues, such as those on Ledge Road.

The sidewalks program would be level-funded at \$25,000. Snow and ice removal will be level-funded as well; he noted salt prices are increasing by 2.3 percent under the contract. Street lighting would be increased by 3.41 percent. Utility costs would be level funded, with increases in materials and repair and maintenance. Rubbish collection and disposal would be increased by 2.59 percent, with the tipping fee increased by 2.8 percent and the hauling and recycling expenses level funded. Overtime costs for the recycling center were increased in accordance with the salary schedule in the contract with the DPW bargaining unit. Household hazardous waste day and white goods collection were level-funded.

School maintenance and buses would be increased by 2.7 percent. This amount provides for increases in salaries to reflect contractual agreements with employee bargaining units. One bus driver salary is being reduced through attrition, and the Town will have to contract for one additional bus as a result. There is no change in pricing for contract buses. Electrical utility costs are increased due to the installation of lights at the new high school fields; these amounts are based on the usage during October and November, which may not be typical. He will take a closer look at this usage in the spring. Other increases are in the area of school facility maintenance, heating, ventilation and air conditioning (HVAC), fire alarms, sprinkler, and roofing. He noted that the school building and renovation program was some time ago and additional maintenance is needed.

Town buildings and maintenance would increase by 4.08 percent, provides for increases in salaries to reflect contractual agreements with employee bargaining units. Heat and electricity are level-funded. The amenities building and the press box were added to the facilities maintenance budget. Slight increases are sought for carpet cleaning, roof repairs and renovations. There is an increase in costs for elevator maintenance and inspections.

Cemetery renovations and upgrades were level-funded. Mr. Lafferty said he would be reviewing cemetery needs.

Selectman Crawford asked about funding for road work. Mr. Gustus said the \$130,000 in Town funds would, in addition to anticipated Chapter 90 funds, bring total roadway funding to \$250,000, which would meet the goal set by the Board three years ago. Selectman Crawford said it makes sense to budget for electricity for field lights in only the months the fields are in use. Mr. Lafferty agreed, but said the fields were not in constant use in October and November, and would be in greater use next year. He said his budget assumes a 10:00 p.m. shut-off for the lights, and he said he will work with users on proactively managing the lighting system.

Selectman Terranova asked why salaries were increasing by four percent instead of two percent. Mr. Gustus said that for the DPW collective bargaining unit alone, the first step on the salary scale was dropped and an additional step was added after collective bargaining on the issue, as most of the DPW bargaining unit employees had reached their maximum step several years ago. The union had asked that this change be

implemented in the first year of the contract; the Town agreed to implement it in the final year. The net effect for the coming fiscal year is a four percent increase.

Mr. Lafferty also said that two nonunion department members, the executive secretary and the town engineer, received pay increases in this fiscal year based on an evaluation of those positions by him and his recommendation to the town administrator and the chairman of the Board.

Mr. Gustus said that Mr. Lafferty conducted performance evaluations of these employees and examined the competitiveness of their salaries, and provided him with documentation that showed the proposed increases were warranted to maintain competitive salaries in the marketplace. He also reorganized the department, as the prior director was more administration-minded and he has determined to be more active in field operations, and duties were added to these positions. Both individuals also received temporary pay increases for additional duties taken on when the director's position was vacant. The additional salary increases for this fiscal year were approved under the personnel bylaw by the town administrator, which is required if the increases are deemed warranted and there is sufficient funding in the budget for the increases. There will be an impact in the proposed budget.

Chairman Nelson said that this change demonstrated good leadership, as it shows management is looking out for the interests of the Town and its employees. Selectman Crawford noted that the salary line had a surplus due to the second secretary position being vacant for several months. Selectman Terranova said that was a one-time situation; Mr. Gustus said it was, and that the position was recently filled. Mr. Lafferty said that when he began work here, the DPW had five vacant positions; there are now two vacancies, a highway foreman, which will likely be filled in-house, creating a new vacancy, and a floating custodian position. Mr. Gustus said that some positions were left vacant so the new director could be a part of the hiring process.

Selectman Terranova asked whether a three-percent increase in fuel oil is reasonable given the recent reduction in price. Mr. Lafferty and Mr. Gustus said they had discussed that very issue earlier today. Mr. Lafferty said he expects that prices will rise again. Mr. Gustus noted that that the change in one school bus from a Town vehicle to a contracted bus will also reduce fuel costs.

Selectman Terranova asked how many department members take Town vehicles home. Mr. Lafferty said three department members, one of which is he, take their vehicles home. The working foreman is on call for emergencies and is the first called to the scene after Town Hall hours when the Police Department is alerted of an emergency. The assistant director for school operations handles school custodians and bus drivers, and these facilities are in use on nights and weekends. Selectman Terranova asked if it is standard for these positions to have take-home vehicles. Mr. Gustus said every community handles it differently. He said these three positions have had Town vehicles in Lynnfield for some time. The working foreman is called out for issues such as downed trees and removal of logs from the Pillings Pond dam, and he responds initially and determine what other response is necessary. The assistant director of school operations did not always have a Town vehicle, but supervision of the custodial staff working at night was lacking. Under the current arrangement, this position works from 6:00 a.m. to 3:30 p.m. and on occasion returns for spot checks during evenings.

Selectman Terranova said that Town-wide, roads are lacking due to the lack of upgrades. He asked if the additional appropriation will be adequate to address this issue. Mr. Lafferty said the additional funding will be a good shot in the arm, but will not be sufficient to bring every road in Town up to standard. He noted very few communities are able to achieve that goal.

Selectman Crawford asked about additional Chapter 90 funding. Mr. Gustus said that the Town will receive about \$200,000 in state Chapter 90 roadway improvement funding above the \$430,000 already received. With the Town appropriation, Lynnfield will be close to having \$900,000 available for road improvements, which is close to the amount needed to replace each roadway before it reaches the end of its useful life of 40 years. The Town has much deferred maintenance due to the lack of funds available for such work. He also suggested that the Town may want to revisit its scoring system implemented several years ago, which based its scoring on the condition of the roadway as well as usage and traffic flow. This scoring method made it nearly impossible for smaller streets to move to the top of the list. The formula may have to be tweaked to recognize this issue. Some side streets have been addressed in recent years, but this has been a departure from the formula-based approach intended to take political considerations out of the decision-making process on road work. Mr., Gustus said \$900,000 per year may not be quite enough to accomplish the goal, but he said it is closer than the Town has ever been to meeting the goal.

Selectman Terranova said that the Capital Facilities Committee will be issuing its report on Town facilities needs in about six months. He asked if there is funding in the budget to address the needs it might identify. Mr. Gustus said that departments' capital budgets are due later this month, and the Town is still working from the older capital facilities maintenance plan. Some smaller projects have been addressed, and the Town has added funds to the Capital Facilities Maintenance Fund in recent years. In his draft budget, Mr. Gustus recommends placing \$300,000 in this fund and an additional \$300,000 in the Stabilization Fund. Accessing these accounts requires a two-thirds vote of town meeting.

Selectman Terranova said that the Town has to address its building maintenance needs. Mr. Gustus credited Mr. Lafferty and his predecessor, Dennis Roy, with putting emphasis on preventative maintenance, especially with heating, ventilation and air-conditioning systems, which has reduced the Town's repair and energy expenses.

Selectman Terranova asked about reducing energy costs by use of solar panels. Mr. Lafferty said that in his previous position in Newburyport, there were panels at the schools and the public works facility. He said there were mixed reviews on whether the city was benefitting from them. He said he had initial discussions with Reading Municipal Light Department (RMLD) on their use in Lynnfield. He said that it is not as lucrative when dealing with a municipal electricity supplier than it is with a for-profit supplier. He said they are examining possible uses at Lynnfield High and

conducting an energy audit. He said he did not have numbers yet on projected savings versus the cost of installation. He said that roof-based units are not as practical as solar fields.

Selectman Terranova said that National Grid offers a no-cost program with solar panels, but the electricity provider needs to provide the infrastructure. Mr. Gustus said investor-owned utilities are under state and federal mandates to buy energy from alternative energy sources. Municipal providers such as Peabody and Reading, which serve Lynnfield, are not under such requirements. Private companies that utilize such alternate energy technologies also receive significant tax benefits, but municipalities do not benefit in this way because they are tax-exempt. RMLD does buy some energy from alternative sources and generates credits. He, Chairman Nelson and the RMLD Citizens Advisory Board, of which Chairman Nelson is a member, have urged RMLD to sell these credits and create incentives for the member municipalities; they have chosen to use the proceeds from the credits to lower costs to users. Municipalities who have availed themselves successfully of solar energy technology generally have a large piece of Town-owned property they lease to a developer, who pays the taxes on the equipment; the municipality can purchase the energy generated by the contractor at a reduced rate.

Mr. Gustus noted that while municipalities cannot avail themselves of the tax advantages of alternative energy sources that for-profit businesses can, and municipally-owned utilities are not under the same requirements to purchase from alternative sources, municipal utilities are not increasing prices at nearly the rate that investor-owned utilities are. RMLD brought forth a proposed five percent rate increase recently, its first in years, and member communities pushed them to scale back to a four-percent increase; non-municipal utilities are increasing rates by 30 percent. Chairman Nelson said both Peabody and Reading have very reasonable rates.

Resident Katy Shea requested a copy of the budget and the analysis of salaries that resulted in the granting of pay increases for the secretary and the engineering positions.

Chairman Nelson asked if the Town had reached the minimum amount of bus drivers that it can employ under its agreement to reduce Town bus driver positions through attrition. Mr. Gustus said it has. Selectman Crawford asked whether the Town will need to buy a school bus in the near future. Mr. Lafferty said that the Town has five functioning buses which are aging; one or two will probably require replacing in the next couple of years. The Town should consider whether it wished to purchase or lease buses.

Discussion of Perley Burrill matter

Selectman Terranova recused himself from this discussion due to a prior business relationship with the owner of the property, saying he wished to err on the side of extreme caution and left the room during it.

Chairman Nelson said the court hearing scheduled for last month was put off until January 8. Mr. Gustus said the postponement said that the owner of the property had agreed to have a performance bond posted ensuring that the required tank removal work would be done; subsequently, the individual who was said to have agreed to post the performance bond declines to do so. The Town has instructed Town Counsel Thomas Mullen not to entertain any more proposals from the owner. On January 8, the court is scheduled to take up two separate contempt charges, for failing to file the required tank removal permit applications by the deadline, for which the trustee, Joseph Pedoto, has already been found in contempt, and for failure to remove the underground fuel storage tanks by the court-imposed deadline. The hearing is to determine the penalty on the contempt finding, which could include a fine or jail time, or both. Mr. Mullen and Fire Captain Feinberg will attend.

Chairman Nelson asked what will happen if Mr. Pedoto fails to appear. Mr. Gustus said this will likely result in a summons for his arrest being issued. Selectman Crawford asked about the likelihood that Mr. Pedoto will file for bankruptcy. Mr. Gustus said for the Town, this is the preferred outcome as it will result in the appointment of a bankruptcy trustee who will take the public good into account. He said the owner has been trying to avoid bankruptcy, but that his own attorney has said it may be the only way for him to avoid sanctions.

Chairman Nelson asked if the court can mandate bankruptcy. Mr. Gustus said that it is creditors who usually force an involuntary bankruptcy. Selectman Crawford asked what would follow a bankruptcy filing. Mr. Gustus said that there would be an automatic stay of all litigation against the debtor, and within 45 days, a trustee would be appointed and creditors would be allowed to examine the schedule of financing demonstrating insolvency. Creditors can ask questions of the debtor. The trustee is charged with the disposal of the estate. The land has value, but not in its current condition. The Town is hoping the trustee will clean the property and sell it.

Selectman Crawford asked about the likelihood that the bankruptcy would be under Chapter 11 versus Chapter 7. Mr. Gustus noted that Chapter 7 is dissolution, while Chapter 11 is a reorganization of the entity, with a payment schedule set up under the direction of the court and supervision of the trustee. There has to be a demonstration of a reasonable expectation that the secured creditors will be paid. The Town is a major creditor in this case due to the taxes owed on the property.

Resident Katy Shea asked about the size of the parcel of land. Mr. Gustus said the size is approximately 3.5 acres, with \$150,000 in back taxes owed. The case goes back seven or eight years; the Town did want to foreclose the right of redemption by the owner because the Town prefers that the owner be responsible for any necessary environmental clean-up. Ms. Shea commented that a key concern is whether any contamination entered the groundwater. Mr. Gustus said he believes a trustee will attempt to determine whether this has occurred.

Chairman Nelson said the Board would have a further report on the matter at its January 26 meeting.

Use of Town facilities

On the motion of Selectman Crawford, duly seconded by Selectman Terranova, the Board voted unanimously to allow Cornelius Murphy use Newhall Park from 9:00 a.m. to noon on January 6, 2015 for the making of a student film.

Administrative matters

On the motion of Selectman Terranova, duly seconded by Selectman Crawford, the Board voted unanimously to approve the minutes of the meeting of December 3, 2014 as submitted.

Selectman Crawford welcomed Mr. Boudreau and thanked Mr. Gustus for 12 years of dedicated service to the Town. He said Lynnfield is a better place to live as a result of his service, and wished him good luck.

Selectman Terranova welcomed Mr. Boudreau and had a question on the subpoena served on the Board, which requires appearance in court on January 15, 2015 at 2:00 p.m. Mr. Gustus said he would ask town counsel to review the issue. He pointed out that the Town has not received a court complaint, or an answer from the Attorney General's office on Mr. Walsh's complaint. He said that the court usually wishes to see a petitioner exhaust administrative remedies before proceeding. He also said that this was not a court subpoena and was not served by a constable.

Selectman Terranova said that issues the Board should be aware of include Other Post-Employment Benefits (OPEB), an expedited request for updating the war memorial on the common, the request from the Council on Aging for a new telephone system. Mr. Gustus said he told the Council on Aging to make a capital budget request for the phone system. He said while the current system is old, it is operating; a large issue is that it is difficult to find replacement parts. He said the replacement is not an emergency and can wait until the next fiscal year. No funds are in this year's budget for a new phone system, but the Board could seek a reserve fund transfer if its replacement became an emergency.

On the motion of Selectman Crawford, duly seconded by Selectman Terranova, the Board voted to adjourn at 9:30 p.m.