Submitted by MCD
Date 5/14/15
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COPY

TOWN OF CHARLTON

Minutes of Regular Selectmen's Meeting
Tuesday – April 28, 2015 at 6:30pm

Present: Chairman – Frederick C. Swensen, Vice-Chairman – Joseph J. Szafarowicz, Clerk – Cynthia B. Cooper and Members – David M. Singer and John P. McGrath. Also present: Town Administrator - Robin L. Craver. Absent: Student Selectperson – Emily Sprague.

NOTE: Some matters may have been taken out of agenda order but were typed up in agenda order for ease of locating information when necessary.

I. Call to Order:

1. Chairman Swensen called the meeting to order with the pledge to the flag.
2. Chairman Swensen reminded everyone to treat each other courteously and be acknowledged by the Chair before speaking. Those in attendance are requested to turn off cell phones or put them on vibrate so as not to disrupt the proceedings and remove hats, if any.
3. Chairman Swensen stated that we are in the Senior Center for now due to a burst pipe in the attic that flooded the Town Clerk's office who is now located in the Selectmen's meeting room. This is temporary.

II. Consent Agenda:

III. Community Relations, Announcements and Open Forum:

- Chairman Swensen read the announcements.
- **Mr. McGrath made a motion to approve an agreement that Mrs. Craver provided to the Board in regards to the injured employee, seconded by Mr. Singer, motion carries unanimously.**

IV. Appointments/Resignations:

V. Scheduled Appointments:

VI. New Business:

1. Special License request – wedding – Thompson. Mrs. Craver stated that attached is a request for a Special License to serve wine/malt beverages on May 30, 2015 from Diane Thompson for a wedding to be held from 4pm – 11pm at Camp Joslin, 150 Richardson Corner Road. This request has been forwarded to the Fire, Police and Building Departments. The only stipulation requested is by the Fire Department which is "Do Not Block Fire Lane Access." This request will be issued for three days as follows:
   Day 1 – to allow for delivery of alcohol
   Day 2 – to allow use of alcohol for event
   Day 3 – to allow pick up of unused alcohol
   All other requirements have been met. It is recommended the Board approve this request. **Motion by Mr. Szafarowicz to approve Ms. Thompson's alcohol special license request with the stipulations, seconded by Mr. McGrath, motion carries.**

2. Special License request – wedding – Alers. Mrs. Craver stated that attached is a request for a Special License to serve wine/malt beverages on May 9, 2015 from Amanda Alers for a wedding to be held from 3pm – 10pm at Camp Joslin, 150 Richardson Corner Road. This request has been forwarded and approved by the Fire, Police and Building Departments. This request will be issued for three days as follows:
   Day 1 – to allow for delivery of alcohol
   Day 2 – to allow use of alcohol for event
   Day 3 – to allow pick up of unused alcohol
   All other requirements have been met. It is recommended the Board approve this request. **Motion by Mr. McGrath to approve the Special Liquor License for Amanda Alers to take place on May 9, 2015 at Camp Joslin with all the pertinent information, seconded by Mr. Singer, motion carries unanimously.**
3. Special Permit application – Elliot P. Burlingame & Sons. Mrs. Craver stated that the Planning Board has provided you with a copy of a special permit application submitted to them by Para Land Surveying, Inc. on behalf of Elliot P. Burlingame & Sons for special permit approval to create two (2) reduced frontage house lots on property off of Partridge Hill Road and special permit approval for a common driveway to be constructed from Oxford Road to serve the two proposed houses (Assessors Map 54, Block C, Parcel 1.7). Said property is zoned Agricultural (A). You are asked to review and provide any comments to the Planning Board no later than May 13, 2015. Mr. McGrath stated that the normal length for a common driveway is 500 feet. One section of the drive way to get to one house is 950 feet and the next section is 1175 feet which is a lengthy common driveway. He stated that when he was on the Planning Board, common driveways were used for wetland crossing and when he looked at this plan, there was no wetland to be crossed. He said it's a lengthy, lengthy common driveway for two lots. He asked for his comments to be forwarded to the Planning Board. Curtis Meskus came forward and stated that as the Building Commissioner/Zoning Enforcement Officer, he will be offering written comments to the Planning Board and the Zoning Board of Appeals because as Mr. McGrath has said, common driveway regulations permit 500 ft and they are seeking a variance for that which will be up to the Zoning Board of Appeals to grant. These two lots are currently one legal lot and can be divided into two reduced lots. He has issues with this. Mr. McGrath said in hearing this, he is absolutely against allowing somebody to take one legal lot which they can use a common driveway for and make two lots out of it. That's never been allowed in town. Chairman Swensen asked what the negative impact would be of a driveway this long. Mr. McGrath stated that there is a reason why this has been kept at 500 ft.
4. Site Plan application – Sampson Road Solar, LLC. Mrs. Craver stated that the Planning Board has provided you with a copy of a site plan application submitted by Waterman Design Associates, Inc. on behalf of Sampson Road Solar, LLC for the site plan approval to construct a 2.6 Megawatt commercial ground mounted solar array and associated utility connection on property located at 18 Sampson Road (Assessors Map 32, Block A, Parcel 6). Said property is zoned Low Density Residential (R-40). You are asked to review and provide any comments to the Planning Board no later than May 27, 2015. Mr. Singer would request the Planning Board consider requiring natural barriers around the solar farm to prevent any neighboring homes, businesses or roads from having to look upon that.
5. Request to proclaim May as Building Safety Month. Mrs. Craver stated that last year, Curtis Meskus, Building Commissioner asked the Board of Selectmen to proclaim May as Building Safety Month in conjunction with the Governor and the Massachusetts Federation of Building Officials and the International Code Council. At that time, the Massachusetts Federation of Building Officials asked every single municipality in the state to join the Building Officials in the Commonwealth and their Departments of Building Safety to support code enforcement in creating

safe sustainable Buildings & Structures in our community. The Board approved the request and proclaimed May as Building Safety Month. Mr. Meskus is asking the Board to consider the same request for this year and proclaim May, 2015 as Building Safety Month. Mr. Meskus stated that they will be posting information on the town's website for people to view and help building officials do their job and also help us make your houses sustain those storms and wind damage that occurs more frequently than not now. **Motion by Mr. Singer as requested by Mr. Meskus, to declare May as Building Safety Month, seconded by Mr. McGrath, motion carries.**

6. Public Hearing for Zoning Bylaw in Section 200-7.1, Administration. Mrs. Craver stated that attached is a notice of public hearing from the Planning Board for the proposed Zoning By-Law Amendment as suggested by Selectman Singer. The hearing is scheduled for Wednesday, May 6, 2015 at 7:15pm in Dexter Hall on the second floor of the Charlton Public Library.

VII. Old Business:

1. Board of Selectmen goals and objectives – update. Mrs. Craver stated that Selectman Cooper has provided the board with recommendations related to the Selectmen's role in master plan items per one of the Selectmen's goals this year. She has provided information she compiled on the Community Preservation Act and asked for this item to be placed on the agenda for discussion. Mrs. Cooper stated that one of the goals is to look at the Selectmen's roles in the master plan. She made a chart of all the times that Selectmen were recommended as leads or among those that would be responsible for portions of the master plan and many of these categories are reconsideration of adoption of the Community Preservation Act. Mrs. Cooper has attended meetings and seminars on the Community Preservation Act and has provided information on it and reviewed it. Chairman Swensen asked if we know where the program stands in the proposed budget for this year. Mrs. Cooper stated that it's not something that's been requested for this town at the annual town meeting or ballot. It has to pass at both places in order to start the process. She said this is a conversation we might want to think about. Chairman Swensen asked if we can get some information from the Assessors on the financial implications on tax bills. Mrs. Craver stated that when you sell a property, it comes off at the registry. Chairman Swensen asked everyone to read through it and give it some thought.
2. Annual Town Meeting – update/budget. Mrs. Craver stated to please see attached the FY16 ATM draft warrant with motions. The Board will have one more meeting before the Annual Town Meeting. If you find that you need more discussion on the warrant or budget, we can schedule a workshop for next week and invite the Finance Committee if necessary. The Finance committee will meet tomorrow night. They have completed their meetings with Departments. She spoke to the DCRSD Finance Director today and he doesn't think the School Committee's process will be complete until May. The House is reporting out that they will be restoring some of the cuts the Governor made such as regional transportation and kindergarten. Mr. Trifone will be leaving for retirement Thursday and Mr. Rich Mathieu, the new School Finance Director, will calculate the additional State monies as well as continuing to review department requests. We are hoping that the Senate might even add additional monies back into the budget. We are in the process of revising the draft budget with new numbers from the schools and making the personnel adjustments to non-union personnel now that the Highway Contract is settled. No new news at this time. She asked if the Board would like to go thru the motions and see how many we can get approved tonight and what additional information you might need to make a decisions on others? Chairman Swensen stated that in light of Mr. Trifone's retirement, he would ask for our office to send a letter to him thanking him on behalf of the residents in Charlton for his service to the town and district for all these years. Review of the warrant with motions:

   Article 1 – Election

   Article 2 – Town Reports

Article 3 – Litigation
Article 4 – Bylaw – Sale of Surplus Property
Motion by Mr. Szafarowicz that we support Articles 1 – 4 as they are housekeeping, seconded by Mr. Singer, motion carries.
Article 5 – Inter/Intra Departmental Transfers for FY15
Motion by Mr. McGrath that we approve Article 5, seconded by Mr. Singer, motion carries.
Article 6 – Town Budget – Mrs. Craver recommended holding off approving this article until the budget is known.
Article 7 - Water Department Budget
Article 8 – Sewer Department Budget
Mrs. Craver stated that Articles 7 & 8 are still in process and should hold.
Article 9 – Transfer of funds to and from stabilization fund account – Mrs. Craver stated that she just met with Conservation and Department of Agricultural regarding Fay Mountain Farm. It has been recommended to ask the Board to add $10,000 from Stabilization for Fay Mountain Farm for the purpose of assisting us in furthering to meet our obligations for the agricultural restriction that we are supposed to be putting on there. Mr. McGrath stated that this amount of money will get us started on the path to get us right with the Department of Agriculture. Some of the other issues will be discussed in executive session. Mrs. Craver was asked to hold that until we have the rest of the discussion. She stated that this will not be discussed tonight so she will add it in and after discussion, the board will decide whether to keep it or take it out.
Article 10 – Capital Items and Related Contracts – Mrs. Craver stated that Fay Mountain Farm should be in this article and she will move it. Hold on Article 10. With that said, **motion by Mr. Szafarowicz to approve Article 9, seconded by Mr. McGrath, motion carries**.
Article 11 – Cemetery Perpetual Care – **Motion by Mr. Szafarowicz to support the motion for Article 11, seconded by Mr. McGrath, motion carries.**
Article 12 – Reauthorization of revolving funds – **Motion by Mr. McGrath to approve Article 12, seconded by Mr. Szafarowicz, motion carries.**
Article 13 – Classification plan update – This has been approved by Personnel. Mr. Szafarowicz does not agree with all the classifications. He stated that there were two versions and he does not agree with Item 3. Mr. McGrath stated to make it clear, it's the Planning Board/EDC Director. Mrs. Craver reviewed those positions within the plan. **Motion by Mr. Szafarowicz to approve Article 13, seconded by Mr. McGrath, motion carries.**
Article 14 – Personnel bylaw amendment – definitions – work day/work week. **Motion by Mr. McGrath that we support Article 14, seconded by Mr. Szafarowicz, motion carries.**
Article 15 – Government Study Committee – **Motion by Mr. McGrath that the Selectmen support Article 15, seconded by Mrs. Cooper, motion carries.**
Article 16 – Zoning Bylaw – large scale ground mounted solar photovoltaic bylaw. Mrs. Cooper asked if the Selectmen usually make a recommendation on a zoning issue? It was discussed to wait and ask the town planner. Because it's sponsored by the Board of Selectmen, we should take action. **Motion by Mr. Singer that the Board support the article, seconded by Mr. Szafarowicz, motion carries.**
Article 17 – Citizen Petition
Article 18 – Citizen Petition
Article 19 – Citizen Petition
Motion by Mr. McGrath that we pass over Articles 17, 18, 19 as they are citizen petitions, seconded by Mr. Szafarowicz, motion carries.
Mrs. Craver stated that the petitioner asked that we use town counsels recommendation which is to pass over indefinitely. **Motion by Mr. McGrath to rescind his motion. Motion by Mr. Szafarowicz to rescind his second. Motion by Mr. McGrath that we vote for Articles 17, 18**

and 19 to postpone indefinitely and support the motion, seconded by Mr. Szafarowicz, motion carries unanimously.

VIII. Committee Reports:

IX. BOS Policy Review:

X. Student Selectperson Report:

XI. Town Administrator Report: Mrs. Craver reviewed her report.

XII. Other Business: (unknown at time of posting)
Selectman Szafarowicz stated that tomorrow night is the CERT (citizen emergency response team) graduation.

XIII. Next Meeting Announcement:
Annual Town Election – Saturday – May 2, 2015 – 8am – 8pm – Heritage School
Next Regular Selectmen's Meeting – May 12, 2015
Annual Town Meeting – Monday – May 18, 2015 – 7pm – Charlton Middle School

XIV. Adjourn/Executive Session:
Motion by Mr. Szafarowicz to enter into executive Session at 7:44pm under M.G.L. c. 30A, Sec. 21, #3 – to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and #6 – to consider the purchase, exchange, lease or value of real estate, if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body, seconded by Mrs. Cooper. Roll call vote taken: Mrs. Cooper – aye, Mr. Szafrowicz – aye, Mr. Singer – aye, Mr. McGrath – aye and Chairman Swensen – aye. The Chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body and that the board will reconvene to open session for the purpose of adjourning.

Motion by Mr. McGrath to adjourn at 10:02pm, seconded by Mrs. Cooper, unanimous.

Submitted by:

Mary C. Devlin
Administrative Assistant

Accepted by:

Frederick C. Swensen, Chairman

Joseph I. Szaforowicz, Vice-Chairperson

Cynthia B. Cooper, Clerk

David M. Singer, Member

John P. McGrath, Member

TOWN OF CHARLTON
OFFICE OF THE TOWN ADMINISTRATOR
37 Main Street
Charlton, MA 01507
WWW.TOWNOF CHARLTON.NET
Phone: (508) 248-2206
Fax: (508) 248-2374

TO: Board of Selectmen

FROM: Robin L. Craver, Town Administrator

DATE: April 14, 2015

SUBJECT: Town Administrator's Report – for Selectmen's meeting of 4/28/15

BOS Community Sign Board – We are still working on recommendations for the policy and will bring it back for your review at your next meeting.

Masonic Home Liquor License – I met with representatives from Masonic Home regarding their All Alcohol License. They are making some changes to their legal structure and had questions. They informed me that the Hotel where the license is closed and not open to the public. We will be contacting the ABCC to see how and where they are thinking about restructuring and do a walk thru to make sure they are in compliance with all State Laws governing the disbursement of alcohol on the premises.

Whitewater- testing – I have been informed that Whitewater has been testing the Police Department and not been billing for services for 10 months. I will meet with them to find out the particulars. It appears they stopped when the Fire Station was hooked up to public water.

Town Hall Construction – The construction has continued on the town hall to address the water damage. The Town Clerk's room has been painted and the floor is being installed. In the lower offices, the wall board has been removed and the masonry work is being done on the floor. Again, I wish to thank Curt Meskus for overseeing this work.

On another note regarding the town hall, the sub-bids were opened and we did not receive a bid for the elevator. We have been in contact with the grant administrator and architect and it appears the most convenient way to proceed is to have the General Contractors carry an amount in their bids for the work. This will keep us on track to meet grant deadlines. I will keep you informed as we proceed.

CRR (Coalition for Responsible Retailing) - We received a letter from the Coalition for Responsible Retailing which are Massachusetts retailers that are committed to keeping tobacco out of the hands of minors. They are asking local officials to stand with them and pass common sense regulations to help keep tobacco and nicotine products out of the hands of minors. We have forwarded this letter to the Board of Health as they issue tobacco permits.

CRR

COALITION for RESPONSIBLE RETAILING

We comply because we care

RECEIVED
APR 16 2015
BOARD OF SELECTMEN
CHARLTON, MASS

Ms. Robin Craver
Charlton Town Hall
37 Main St
Charlton, MA 01507

Dear Ms. Craver,

Massachusetts retailers are committed to keeping tobacco out of the hands of minors. Yet, 4 of 5 minors get their tobacco from sources other than retailers, so we cannot do it alone.

We want to partner with you to implement regulations to effectively reduce minors' access to tobacco. The four major trade organizations, representing tobacco permit holders throughout Massachusetts, have united together under the Coalition for Responsible Retailing to pursue adoption of regulations that would help stop the flow of non-retail sources that provide minors with the vast majority of tobacco. We would like the opportunity to meet with you to discuss our model regulations and how we think they can impact minors' access to tobacco and smoking rates in your community.

We are parents, neighbors, and community members who are invested in the prosperity of our communities and protecting against the illegal sale and use of tobacco products. As local business owners, our members contribute significantly to the local economy and quality of life in our communities. We are concerned with loopholes in Massachusetts state and local laws that allow parents and guardians to provide tobacco products to minors in their care without penalty. There are no laws that hold enabling adults who provide tobacco products to minors accountable like we see with alcohol. Also, current laws allow minors to share and use tobacco products – privately or in public - without any repercussions.

We are calling upon local officials to stand with us and pass common sense regulations to help keep tobacco and nicotine products out of the hands of minors and stop them from using tobacco if they possess it. Our proposal includes the following provisions:

1. Apply the minimum legal age of purchase for tobacco products to electronic nicotine vapor products.

2. Remove the exception for parents and legal guardians to give tobacco products to their children who are under the legal age of purchase.

3. Impose a fine on enabling adults that provide tobacco products to persons under the minimum legal sales age.

574 Boston Road, Billerica, MA 01821

CRR

COALITION for RESPONSIBLE RETAILING

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4. Add language to local regulations that specifically makes it illegal for minors to purchase tobacco products.

5. Implement civil fines for underage minors in possession of tobacco or nicotine delivery products.

We are confident that closing these loopholes in local and Massachusetts state laws will be effective. The 2014 Journal of School Health reports that 86% of underage smokers get access to tobacco products from sources other than purchase at retail stores[1]; It's critical that we tackle this problem of obtaining tobacco through social sources. In addition, a 2012 Surgeon General study found that "Social influences are among the most robust and consistent predictors of adolescent smoking"[2]. The FDA reports a 91.8% compliance rate by retailers in Massachusetts based on over 200,000 checks nationwide[3]. Local compliance rates are frequently higher. We will continue to work hard to do even better. Knowing there are consequences when mistakes are made is important for us, as well as adults and minors.

We hope you will take swift action so that your community has the most effective tools to fight against tobacco use by minors. These regulations combined with our continued diligence and compliance with the existing laws makes us confident our proposal will significantly impact and reduce the use of tobacco by minors. To learn more about our organization and the facts that support adoption of these regulations please visit www.responsibleretailing.com. We will be reaching out in the next couple of weeks to schedule a time that we can come and present to you.

Sincerely,

Stephen Ryan
Executive Director
New England Convenience Store Association

Jon B. Hurst
President
Retailers Association of Massachusetts

Thomas Briant
Executive Director
National Association of Tobacco Outlets

Matt LeLacheur
Co-Director
New England Service Station and Auto Repair Assoc.

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[1] Everett Jones S, Caraballo RS. Usual source of cigarettes and alcohol among US high school students. J Sch Health. 2014; 84: 493-501.

[2] U.S. Department of Health and Human Services. "Social, Environmental, Cognitive, and Genetic Influences on the Use of Tobacco Among Youth" Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. (2012) Pg. 458

[3] Food and Drug Administration. "Compliance And Enforcement Report" (2013): Pg. 27.

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Summary of Model Regulations

The Coalition for Responsible Retailing (CRR) has endorsed a set of model regulations to be incorporated into Massachusetts municipalities' tobacco regulations. In summary, the regulations would do the following:

1. Apply the minimum legal age of purchase for tobacco products to electronic nicotine vapor products.

2. Remove the exception for parents and legal guardians to give tobacco products to their children who are under the legal age of purchase.

3. Impose a fine on enabling adults that provide tobacco products to persons under the minimum legal sales age.

4. Add language to local regulations that specifically makes it illegal for minors to purchase tobacco products.

5. Implement civil fines for underage minors in possession of tobacco or nicotine delivery products.

Model Regulations

We are requesting that the local Boards of Health make the following specific amendments to their existing tobacco regulations:

Amend the minimum legal age definition to include electronic nicotine products.

Also, insert the following sections:

Purchase for or providing tobacco products to minors.
(1) Civil Violation. It shall be unlawful for any individual to purchase any tobacco product on behalf of, or to give any tobacco product to, any person under the minimum legal sales age. The terms of this section shall not apply to an employee who, in the course of their employment and as a part of their employment duties, sells tobacco products.

(2) Civil Penalty. Any individual who violates subsection (A) shall be liable for a civil penalty of:
a. [$_____] for the first violation of such subsection by such individual;

b. [$_____] for the second violation of such subsection by such individual within [time period]; or
c. [$_____] for the third or a subsequent violation of such subsection by such individual within [time period].

Purchase or possession of tobacco products by persons under the minimum legal sales age; use of false identification.

(1) Civil Violation. It shall be unlawful for any person under the minimum legal sales age to purchase a tobacco product, possess a tobacco product, or to attempt to purchase or possess a tobacco product. This subdivision shall not apply to any person under the minimum legal sales age engaged in law enforcement activity in accordance with enforcement of minimum age laws, or to any person under the minimum legal sales age who is handling or transporting a tobacco product under the terms of his or her employment.

(2) Civil Violation. It shall be unlawful for any minor to present or offer to another individual a purported proof of age which is false, fraudulent or not actually his or her own proof of age, for the purpose of attempting to purchase or possess a tobacco product.

(3) Civil Penalty. An individual who violates subsection (1) and/or (2) shall forfeit any tobacco products and/or forfeit such proof of age in his or her possession to any law enforcement officer upon request, and/or and such individual also shall be liable for a civil penalty of:
a. [$_____] and/or [#] hours of community service work for the first violation of such subsection by such individual;
b. [$_____] and/or [#] hours of community service work for the second violation of such subsection by such individual; or
c. [$_____] and/or [#] hours of community service work for the third or any subsequent violation of such subsection by such individual.

Develop a Tobacco Awareness Program.

(1) In General. On a finding of liability of an individual for a violation Under the purchase or possession of tobacco products by persons under the legal sales age, the court shall require such individual to attend a tobacco awareness and cessation program approved by the local Board of Health. The court may require the parent or guardian of such individual to attend the tobacco awareness and

cessation program with that individual. On request, such program may be taught in languages other than English. If such individual resides in an area of this state in which access to a tobacco awareness and cessation program is not readily available, the court shall require such individual to perform [#] hours of community service in lieu of attending the tobacco awareness and cessation program.

(2) Violation Expunged From Record. Not later than [#] days after the date of a finding of liability under Section [#/letter], the individual found liable shall present to the court, in the manner required by the court, evidence of satisfactory completion of the tobacco awareness and cessation program, and/or evidence of the performance of any community service required under this section or the false identification section. On receipt of the evidence required under this section, the court shall waive any fine imposed under the false identification section and shall expunge such individual's record of liability for the violation, whereupon such individual shall be released from all penalties and disabilities resulting from the violation, except if, after the date of such release, such individual is subsequently found liable for a violation under the false identification section, any preceding violation of such sections shall be reinstated in such individual's record.