

TOWN OF ADAMS SELECTMEN'S MEETING AGENDA

WEDNESDAY, February 1, 2012 – 7:00 PM

TOWN HALL, MEETING ROOM, 1st FLOOR, ADAMS, MA 01220

1. **CALL TO ORDER – 7:00 PM**

2. **READING OF MINUTES**

- December 5th & 7th, 2011

3. **CITIZEN'S CONFERENCE**

4. **PUBLIC HEARING**

5. **OLD BUSINESS**

- Approval of Lease Agreement - Adams Retirement Board
- Ratification of Police Contract
- Ratification of Clerical Contract
- Discussion of MJD, Realty

6. **NEW BUSINESS**

- Discussion on Liquor License
- Presidential Primary Warrant

7. **SUBCOMMITTEE/LIAISON REPORTS**

8. **A. ADMINISTRATOR'S REPORT**

B. PUBLIC WORKS DEPARTMENT

C. POLICE DEPARTMENT

D. COMMUNITY DEVELOPMENT

E. OTHER DEPARTMENTS

F. TOWN COUNSELOR'S REPORT

9. **ANNOUNCEMENTS**

10. **APPROVALS**

11. **OTHER BUSINESS**

RECEIVED-POSTED

12 JUL 12 PM 3:03

TOWN CLERK
ADAMS MASS.

CLERK _____

1. Agenda items

12. **GOOD OF THE ORDER**

13. **EXECUTIVE SESSION**

- To comply with, or act under the authority of, any general or special law or federal-in-aid requirements.

14. **ADJOURNMENT**

February 1, 2012

RECEIVED-POSTED

On the above date the Board of Selectman held a meeting at Town Hall at 7:00 PM. Chairman Harrington presided, present: Michael Ouellette, Paula Melville, Jason Hnatonko, Scott Nichols, Jonathan Butler, Town Administrator and Edmund R. St. John III, Town Counsel.

Chairman Harrington called the meeting to order at 7:00 PM

CLERK

READING OF THE MINUTES

A motion made by Member Ouellette, seconded by Member Nichols to waive the reading of the minutes for December 5, 2011 and place on file – 3 Yeas, 2 Abstained (PM & JH)

A motion made by Member Hnatonko, seconded by Member Ouellette to waive the reading of the minutes of December 7, 2011 and place on file – 4 Yeas, 1 abstained (PM)

CITIZEN CONFERENCE

Resident Jeff Lefebvre informed the Board that on Saturday, February 4th there will be a dinner from 4-7 PM at the PNA to help raise money for the Summer Basketball League. Jeff also asked for an update on the Bike Trail and the cleanup of the Hoosic River, Administrator Butler stated that it is intended to be done in the spring. Jeff also stated that he attended the MPO meeting regarding the Rail Trail Extension and complimented Mayor Alcombright and Town Administrator Jonathan Butler for doing a great job on the presentation, they were prepared and he is glad that this project is almost shovel ready. Jeff also asked Member Melville why she does not vote on the minutes of the Selectmen's meeting. She replied that she doesn't have a direct answer for him right now. He stated that if there was a problem they could straighten it out now, she replied: no she wishes she had a better answer.

Haley Meczywor, Town Clerk wanted to remind everyone that there is an upcoming President Primary Election which will be held on March 6, 2012. February 15, 2012 is the deadline to register to vote in that election and absentee ballots are available if anyone wishes to obtain a ballot you will need to contact the Town Clerks office and they will mail out the ballot to you. She also wanted to remind people that nomination papers are available for the annual Town Elections which you can pick up at the Town Clerks office. A complete listing of all the offices that are available can be located on the Town web site.

OLD BUSINESS

A motion made by Member Hnatonko, seconded by Member Ouellette to approve the Lease Agreement with the Adams Retirement Board – Unanimous

A motion made by Member Hnatonko, seconded by Member Ouellette to ratify the Police Contract – 4 Yeas 1 Nay (PM) motion passed.

A motion made by Member Ouellette, seconded by Member Hnatonko to ratify the Clerical Contract – Unanimous

A motion made by Member Ouellette, seconded by Member Hnatonko to ratify the Supplemental Memorandum of Agreement #1 to the Clerical Contract – 4 Yeas, 1 Abstained (PM)

Chairman Harrington updated the Board on MJD Realty, LLC a copy of a memo was given to Board Members from David Pelletier, Building Commissioner a copy of that memo is attached to these minutes. Edmund St. John III, Town Counsel informed the Board that MJD has been making the payments in accordance with the agreement of the monthly payments to date. At this point as far as that aspect of the agreement is concerned they appear to be in compliance, from what he has been told. Member Nichols asked if these were also the payment to the Wastewater fees; they relate to the combined outstanding taxes preceding the agreement as well as the outstanding wastewater charges which were the subject of the Curtis Paper bankruptcy. It was part of their agreement to pay outstanding charges exclusive of any interest and penalties that aspect of the agreement was approved by the Department of Revenue, there was an installment agreement made. Holly Denault, Town Treasurer stated that the payments they have been receiving are being applied to the Wastewater and it's all included in the agreement. This is a bookkeeping procedure that is hard to explain but they are starting with the Wastewater payments. A copy of these reports is attached to these minutes. Mrs. Denault is looking for guidance from the Board on how she should move forward with this issue. Member Melville asked what the total amount that is owed, Mrs. Denault stated that on the Wastewater it is \$72,443.64 and the total on the main part of the property is \$282,584.09. It was decided that the Board's part of the agreement was paid up to date there is nothing they need to do. The back taxes that are owed are the responsibility of the Town Treasurer to collect. Chairman Harrington asked Mrs. Denault if there were any other business in this situation located in Town. She replied that there are businesses that are behind and she is working with them, but none of them have this kind of agreement. Mrs. Denault was contacted by a financial company regarding the amount owed by MJD but does not feel she is at liberty to discuss their financials. Member Melville stated that Attorney Dubendorf has been in contact with Mr. Butler she is hoping that he shared this business plan with Mr. Butler with this financial institution she is curious to know how much the remediation is and if a bank has faith in this group and she would like detail on that. Mr. Butler does have conversations with Attorney Dubendorf but he also does not know what he can state publicly in terms of their financial status. He does not want to breach any privacy that he is obligated to hold. Member Melville stated then there needs to be a deadline, an action here is needed. Mr. Butler stated that in his capacity as Town Administrator acting on behalf of the Board of Selectmen he understood we had some authority in terms of this agreement, they are in compliance. The issue is the taxes if they were to come in and pay these in full there wouldn't be an issue. Mr. Butler asked if he could get direction from the Board to have Attorney Dubendorf work with the Town Treasurer on collecting the taxes. He doesn't feel that he should be playing that roll. Chairman Harrington stated that from this point forward that there is an understanding that this Board deals with the contract issues and the Treasurer deals with the current tax issues.

NEW BUSINESS

Chairman Harrington wanted the Board to discuss the current liquor license in an open session. As of January 1, 2012 the Town will have one available all alcohol liquor license, the town received three separate inquires as to the availability of an all alcohol license and a beer & wine license in the past year. Two, of the current inquires have not submitted any paper work for this license, one has submitted the required documents for a beer & wine. He wants to discuss how to precede with this issue, i.e. what criteria to use to determine which entity has first dib's at the one all alcohol beverage license. Attorney St. John III stated the following: G.L. Ch. 138, sec 12 allows the local licensing authority (LLA) to grant licenses as it deems reasonable and proper. In determining what is reasonable and proper, the LLA may look at the fitness of the applicant, the type of business it operates and whether the applicant serves the interests of the public. In this instance, three applications have been taken for one available license, as determined by the ABCC. As of this date, none of the applicants has been returned. Concern may be raised that one of the applicants is a former selectman. Unless the former selectman is privy to information not available to the other applicants, he must be treated as any other citizen and is entitled to the same rights. The LLA must examine each application on a first come, first served basis. As a courtesy, I would suggest that the Town contact all applicants to determine whether the applicants will be filling their application (s) and determine whether to issue the license, based upon the fitness of the applicant, the type of business it operates and whether the applicant serves the interests of the public. Chairman Harrington explained to the public that the ABCC Board had placed a Special Legislation License in with the Towns normal quota of 14. It was only after this business did not renew its liquor license that this error was found. With not renewing on January 1, 2012 a full alcohol license became available. It was decided by the Board to mail out by certified return receipt to each applicant an application for a New Liquor License. The Board would act on the applicants that are returned completed.

A motion made by Member Nichols, seconded by Member Hnatonko to approve the notification of a Certified Return Receipt mailing to each person who inquired if the Town had an All Liquor License available – 4 Yeas, 1 Nay (PM)

A motion made by Member Nichols, seconded by Member Hnatonko to approve the Presidential Primary Warrant - Unanimous

SUBCOMMITTEE.LIAISON REPORTS

Member Ouellette updated the Board on the MPO meeting he attended regarding the Rail Trail Extension. Last August it was voted to extend the trail south at yesterday's meeting they took a re-vote. The trail will be extended north from Lime Street to Hodges Crossroad.

Chairman Harrington announced that there was on opening for a volunteer on the TAC. If anyone is interested please call the administrators office.

ADMINISTRATORS REPORTS

A copy of this report is attached to these minutes.

TOWN COUNSELS REPORT

A copy of this report is attached to these minutes.

OTHER BUSINESS

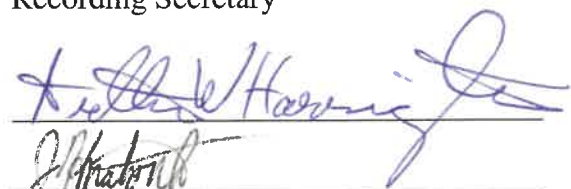

Agenda items: Discussion with the Chair of the Conservation Commission

GOOD OF THE ORDER

Member Melville complimented the property owners in Town, the Towns residents are taking care of their property and it shows.

A motion made by Member Hnatonko, seconded by Member Ouellette to enter into Executive Session at 8:45 PM to comply with, or act under the authority of, any general or special law or federal-in-aid requirements the Board will come out to adjourn only. – Roll Call Vote - Unanimous.

Respectfully Submitted
Melissa Schaffrick
Recording Secretary




Town of Adams • Massachusetts 01220-2039

COMMUNITY DEVELOPMENT DEPARTMENT
BUILDING INSPECTORS OFFICE

RECEIVED POSTED

12 JUL 12 11:03 AM
TOWN HALL
8 Park Street - 3rd Floor
Tel. (413) 743-8315
Fax (413) 743-8309
TOWN CLERK
ADAMS MASS.

CLERK _____

To: Jonathan Butler
Town Administrator

From: David Pelletier, Building Commissioner

Date: January 25, 2012

RE: MJD Real Estate, LLC.

Dear Mr. Butler:

As you requested here is the update on MJD Real Estate located at 115 Howland Ave.

1. At this time, I have not seen any box trailers parked out front along the road. All trailers that are part of the Specialty Minerals operation previously parked out front but are now parked around back where they were instructed to be relocated and to remain there by the Zoning Board of Appeals. There are other trailers and trucks parked in the front that are used in N-Della Contracting business (a by- rights use allowed there,) as well as a few other trailers parked on the property towards the back. These trucks include a flat bed, a tanker and two box trailers; however these appear to have been parked there for some time. In my opinion, I feel these odd trailers are not a violation of MJD's special permit or any zoning by-laws. It is not unusual to see several trucks or trailers parked on commercial or industrial properties around town.
2. Taxes: The monthly payments are currently up to date, including MJD's January 2012 installment payment, however they are still behind on their regular real estate taxes. At present, Attorney Dubendorf has stated that they are still working on the paperwork to clean up the site and refinance the property. His hope is to pay off the back taxes after the refinancing takes place.
3. This department has not received any recent complaints related to this property.
4. In my observation, I did notice a large pile of crushed rocks behind the building during my site visit today. I plan on talking to the owners as to the use of this rock pile.

If you have any questions or require any copies concerning this matter, please don't hesitate to contact me.

Respectfully,

David Pelletier, Building Commissioner



Town of Adams • Massachusetts 01220-2087

JONATHAN W. BUTLER
TOWN ADMINISTRATOR

TOWN HALL
8 Park Street
Tel. (413) 743-8300
Fax (413) 743-8316
e-mail: jbutler@town.adams.ma.us

To: Board of Selectmen

From: Jonathan Butler, Town Administrator

Subject: Town Administrator's Report

Date: February 1, 2012

JWB

1. The Town of Adams had some good news relating to Berkshire Health Group this past week. As a result of a fund balance that has come to exceed \$14 million dollars, Berkshire Health Group decided to issue a "premium holiday" for the month of March to all member communities. Therefore, in the month of February our Town Employees have no payment deducted from their pay for health insurance, and the Town itself is excused from our contribution. The Town of Adams will actually save in excess of \$75,000. This balance will be rolled into future free cash.
2. As many of you may already be aware, the Town worked with our neighbors in North County last night to help secure at least \$1.2 million in funding for the future extension of the Ashuwillticook Rail Trail to Hodges Crossroad in North Adams. The Towns had to present before the MPO and battle with the City of Pittsfield to try and gain priority for the proposed project. It was a significant victory for North County.
3. As we have in previous years, the Town is again working with the Thunderbolt Ski runners to assist in any way possible with this year's race. In addition, we are also working with the ProAdams group to assist with the downtown Thunderfest post-race event. It has been reported to me that if the TSR determine to move the race to the March 3rd "Snow Date", that the public will be informed about this by this coming weekend. In the instance that the race is re-scheduled, the downtown event will also be re-scheduled. However, the ProAdams group intends to hold the downtown event on March 3rd, regardless of whether or not we are able to hold the race.



"Home of Mt. Greylock"

Edmund R. St. John III

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February 1, 2012

Town Counsel Report

I am continuing my work concerning the easements for the Rail Trail extension. This has included meeting with Community Development and providing the Commonwealth with information.

At the request of the Chairman, I researched a question concerning liquor licenses and have provided a memorandum, which is attached to this report.

I received notification from a resident alleging police misconduct concerning the manner in which the investigation of his perpetration of a crime was handled in the 1990's. This resident was convicted of the crime and served a lengthy prison sentence and has had two prior lawsuits against the Town and police personnel dismissed.

I researched questions concerning the agreement made by MJD and whether MJD has fulfilled its obligations.

Edmund R. St. John III

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February 1, 2012

Memorandum

Re: Issuance of license to first qualified applicant

G.L. Ch. 138, sec. 12 allows the local licensing authority (LLA) authority to grant licenses as it deems reasonable and proper. In determining what is reasonable and proper, the LLA may look at the fitness of the applicant, the type of business it operates and whether the applicant serves the interests of the public.

In this instance, three applications have been taken for one available license, as determined by the ABCC. As of this date, none of the applications has been returned. Concern may be raised that one of the applicants is a former selectman. Unless the former selectman is privy to information not available to the other applicants, he must be treated as any other citizen and is entitled to the same rights.

The LLA must examine each application on a first come, first served basis. As a courtesy, I would suggest that the Town contact all applicants to determine whether the applicants will be filing their applications. Once that issue is settled, the LLA must consider the pending application(s) and determine whether to issue the license, based upon the fitness of the applicant, the type of business it operates and whether the applicant serves the interests of the public.