

## **BOARD OF SELECTMEN**

**December 21, 2010**

### **Minutes**

The Board of Selectmen met on Tuesday, December 21, 2010 in the Town Hall Clark Room. Those present were Selectmen John D. Williams, Douglas A. G. Stevenson, William R. Tice, Jr., Peter Scavongelli, and John Gorecki. Town Administrator Timothy D. Goddard was also present.

Mr. Williams called the meeting to order at 6:05 p.m. He explained that the Board would go into Executive Session for approximately one hour, and then reconvene to open session.

At 6:07 p.m. a motion was made by Mr. Tice to go into Executive Session to a conduct strategy session in preparation for contract negotiations with nonunion personnel pursuant to M.G.L. Ch. 30A, §21 (a) (1), to discuss complaints and/or charges against a public officer [§21 (a) (3)] and to discuss strategy with respect to litigation as discussing the matter in open session would have a detrimental effect on the Town's litigating position. The motion was seconded by Mr. Gorecki. The following roll call vote was taken: Williams - aye; Tice - aye; and Gorecki - aye. (Mr. Stevenson and Mr. Scavongelli were not present at this time)

At 7:05 p.m. the Board of Selectmen returned to Open Session. Mr. Williams said he wanted to read a statement (attached hereto), prepared by the Board of Selectmen, relative to the Police Investigations. He said tonight the Board of Selectmen accepted the resignations of Police Chief John Sullivan and Sergeant Kevin Cardonne, which were effective Friday, December 17, 2010. Mr. Williams added that Chief Sullivan has filed for retirement with the Middlesex Retirement Board. Mr. Williams explained that since Chief Sullivan and Sgt. Cardonne are no longer employees of the Town, they will not receive any further administrative leave payments. They will however receive their final payroll checks this week with accrued leave according to their respective contracts with the Town and nothing more. Mr. Williams said there will be no severance or additional payment of any kind to either officer with this resolution.

Mr. Williams expressed his gratitude to the response of the citizens while this investigation was going on. He was also grateful that the Police Department has continued to provide the high quality of public service that the Town has come to expect, even during this difficult time.

Mr. Williams said the Board has been advised by Town Counsel not to discuss the substance of these allegations at this time. However, he assured everyone that the allegations were not minor, but serious in nature and were substantiated by our investigation.

Mr. Williams said tonight's meeting will include two public hearings and one public input session. The first Public Hearing is for the Modification of the Site Plan Review of Ferns Country Store, which will be opened, and then continued until January 25, 2011. The second Public Hearing is for the Modification of the Site Plan Review of the Carlisle Public School Renovation/Restoration Project. Mr. Williams said from eight to nine o'clock we will have our first of three public input sessions on alcohol within the premises, otherwise known as *BYOB* at a commercial establishment now being Ferns, Carlisle Center Ventures.

Mr. Williams spoke about the Ben Benfield, who passed away on December 8<sup>th</sup> at age 99. Mr. Williams said Mr. Benfield was called the Father of Conservation by the *Mosquito*. Mr. Benfield said *yes* to conservation and no to the Tennessee Pipeline. Mr. Benfield was the Founder and Chair of the Carlisle Conservation Foundation. Mr. Williams noted that in 1987 Mr. Benfield was voted the most honored citizen. The Board offered their condolences to the Benfield family.

### **Town Administrator Report**

Mr. Goddard said the Chair of the Carlisle Housing Authority has asked whether the Board intends to submit a joint application to the Community Preservation Committee to fund the Housing Coordinators position in FY12. Mr. Goddard said he recommended that this position be funded because the additional focus on housing support activities has had a positive impact thus far this fiscal year. Mr. Williams said the Board should go ahead and do this for more than one year. In reply to Mr. Stevenson, Mr. Williams said the deadline for submitting Community Preservation Committee applications is at the end of January. The Board will act on this matter during a meeting in January.

Mr. Goddard informed the Board that tonight they would find in their books the required documents for the renewal of the Common Victualler's license for Ferns Country Store. The annual fee of \$25.00 has been paid by the owner. On a motion made by Mr. Tice and seconded by Mr. Scavongelli it was unanimously **VOTED** to approve the renewal of the Common Victualler's License for the Calendar year 2011 for Carlisle Center Ventures, LLC d/b/a Ferns Country Store.

Mr. Goddard said the Chairman of the Household Recycling Committee is present tonight to ask permission to sponsor a Styrofoam Recycling Day at the Transfer Station. Rob Peary from E. Riding Drive explained to the Board the purpose for this recycling event and how it would benefit the Town. He said a member from their committee Launa Zimmaro has been in touch with a company in Framingham called *Re-Foam It* that recycles styrofoam. The Recycling Committee would like to schedule a styrofoam recycle day on *Saturday, January 22, 2011*, at the transfer station from *10 a.m. to 2 p.m.* He passed out a paper that listed the types of items they would collect. He said if this is a successful event they might do it again. Rob said that the Town of Concord does this type of collection once a year at \$5.00 a bag. They thought this might be worth a try. The Board was agreeable to this type of recycling collection.

Mr. Goddard said Selectman Stevenson has asked that the Board schedule time on an upcoming agenda to address the inconsistency between the negative Town Meeting vote and the affirmative ballot vote regarding the question of whether the Selectmen should present a warrant article at a future Town Meeting to either reduce or rescind the CPA surcharge.

Mr. Goddard asked the Board to vote to open the Warrant for the 2011 Annual Town Meeting to be held on Monday, May 9, 2011 for the acceptance of possible Warrant Articles. On a motion made by Mr. Tice and seconded by Mr. Scavongelli, it was unanimously **VOTED** to open the Warrant for the 2011 Annual Town Meeting to be held on *Monday, May 9, 2011* in the Corey Auditorium at 7:00 p.m. and the Town Election to be held at the Carlisle Town Hall on *May 17, 2011*.

Mr. Goddard said the Senior Tax Advisory Council has asked the Boards permission to place in the upcoming Tax Bills an insert relative to the Town of Carlisle's Elderly and Disabled Fund for Fiscal Year 2011. On a motion made by Mr. Tice and seconded by Mr. Stevenson, it was unanimously **VOTED** to allow the Senior Tax Advisory Committee [through the tax collector] to insert into the tax bills a contribution form relative to the Town of Carlisle's Elderly and Disabled Fund for FY2011.

Mr. Goddard informed the Board that the Town will be receiving approximately \$6,000.00 in credits from MIAA for participating in their Loss Control seminars during the past year.

### **Community Input**

Mr. Timothy Hult of Audubon Lane spoke to the Board and those present about the matter of Chief John Sullivan and Sgt. Cardonne. He said John Sullivan is his friend. Mr. Hult said that although John has made some mistakes, he thought that the Town owed John appreciation for the time he spent in Carlisle protecting

the residents and their property. Mr. Hult congratulated the Board of Selectmen on the fair and reasonable way they have handled this matter.

#### **Public Hearing – Fern’s Country Store Site Plan Review Modification**

On a motion made by Mr. Stevenson, and seconded by Mr. Tice, it was unanimously **VOTED** to open the Public Hearing for the modification of the Site Plan Review of Ferns Country Store and continue it until January 25, 2011.

#### **Minutes**

On a motion made by Mr. Tice and seconded by Mr. Gorecki, it was unanimously **VOTED** to approve the Minutes to the Board of Selectmen Meeting of December 7, 2010 with one amendment.

#### **Appointments**

On a motion made by Mr. Stevenson and seconded by Mr. Gorecki, it was unanimously **VOTED** to appoint Sylvia Sillers as the Historical Commission’s representative on the Community Preservation Committee for a one year term that will end June 30, 2011.

On a motion made by Mr. Stevenson and seconded by Mr. Tice, it was unanimously **VOTED** to appoint Luke Ascolillo as the Conservation Commission’s representative on the Community Preservation Committee for a term that will end June 30, 2011.

On a motion made by Mr. Stevenson and seconded by Mr. Tice, it was unanimously **VOTED** to appoint Jeffrey Johnson as the Planning Board’s representative on the Community Preservation Committee for a term that will end June 30, 2011.

#### **Liaison Reports**

Mr. Gorecki reported that at the Financial Management Team met this morning and there was a discussion about a Bond Anticipation Note that will be coming due in February to start funding some of the School project. He said that will be in the range of five or six million dollars. Mr. Gorecki said there was also a discussion on Schedule “A”.

Mr. Tice talked about CCTV. He said they will be holding their Annual Meeting in January and they are looking for new Board members. Mr. Tice said this is a good opportunity for anyone in Carlisle who is interested in CCTV to join the Board.

Mr. Williams said the Affordable Housing Trust meeting is scheduled on January 12<sup>th</sup> at 7:30 p.m.

#### **Public Hearing /Carlisle Public School Modification Site Plan Review**

Mr. Williams said the purpose for this Site Plan review was the relocation of a fire protection cistern and associated paving and landscaping abutting School Street. Arthur Duffy, Architect from HMFH and Lee Storrs from the School Building Committee were present for this discussion. Mr. Duffy showed the two amended areas. The first area was the intersection of the Robbins Building, the Wilkins Building and the new addition, which will allow the fire truck entrance. The other area of the site was the underground fire protection storage. Arthur said this area had multiple grade changes. The cisterns were relocated to the south side of the Brick Building, which is flatter. He said an additional request related to that was the portion of School Street, where the Fire Truck pulls up to the cisterns, would need to be widened from the current 20 feet to 25 feet to allow a fire truck to pull over there and allow traffic to pass by.

Arthur said these plans were presented to the Planning Board a week ago. The feed back from the public hearing was that the decision to widen School Street only as needed by the Fire Department for a distance of about 50 feet was a concern for snow plows and traffic that the road widens and narrows. They then proposed that the road would be expanded a constant 25 feet.

Mr. Gorecki asked the big tree in the courtyard. Art said they are trying to maintain what they can. Mr. Stevenson said the School Administration has noted that the tree presents a liability in some aspects. David Flannery has said the tree needs specific care and there are concerns about its location so near to the school.

Mr. Scavongelli thanked Arthur for his work. He said the Planning Board had notes relative to the tree.

Lee Storrs said he called all of the abutters relative to the meeting tonight.

David Freedman, chair of the Planning Board said it was clear when they received the plans that they were not fully complete in some respect, and some issues were still being worked on. He said in regard to Item #3, a request was made from the Fire Department to increase the fire lane entrance slightly, as long as such increase did not have a negative impact on the tree. David said the other comments were from the Board of Health and will probably be addressed in the Board of Health permitting for the well for the cistern, but they did indicate that they did not know were the cistern radius was to abutters.

David spoke about Item#6 which related to communication between the Board of Selectmen, the School Building Committee, and the School Administration and other Town Departments relative to street closings and construction. David commented that it is important to get the Traffic Safety Advisory Committee involved and get their feed-back. He said the Planning Board's last comment was that the Board of Selectmen should reserve the right to further modify or amend their approval of these conditions.

Mr. Stevenson said the Planning Board has provided the Board of Selectmen with eight (8) recommended conditions. He said it is his understanding that the Conditions the Board is considering tonight are 1, 3, 8 and all of the others have been covered. David noted that Condition # 5 is the Board of Health's jurisdiction.

Mr. Stevenson said the Traffic Safety Advisory Committee provided the Board with three recommendations. The third recommendation was that the Selectmen, in the interest of pedestrian safety, place a condition on the Site Plan Approval that the School Committee grants permission to use a portion of the School property for a pathway project consistent with either the existing School Street pathway or the standard specification for Bituminous Concrete Pathway installation. Mr. Stevenson said they wanted this as a condition, or the Board could ask the School Committee to do this sometime in the future. Mr. Williams said the Board should add it as a Condition.

Mr. Williams asked if there were any abutters who would like to speak. Carol White of 140 School Street said in regard to the widening of School Street, she wanted to know if parking would still be allowed after the road is widened. Mr. Stevenson said the widening of the road is in response to the placement of the cisterns and the fire lane. He said there will be no parking in that area.

On a motion made by Mr. Tice and seconded by Mr. Stevenson, it was unanimously **VOTED** to close the Public Hearing for the Site Plan Review of the Carlisle Public School.

On a motion made by Mr. Stevenson and seconded by Mr. Scavongelli, it was unanimously **VOTED** to approve the amended Site Plan for the Carlisle Public School dated December 21, 2010 with the following conditions: [said conditions listed on the Planning Board's 12/7/2010 Memo, attached hereto] 1, 3, and 8 and condition # 3 from the Memo, attached hereto, provided from the Traffic Safety Advisory Committee, dated December 20, 2010.

### **Consideration of Carry-in or BYOB Discussion**

Mr. Williams said this is the first of three discussions on this matter. The next discussion will be on January 11<sup>th</sup> and the third on January 25<sup>th</sup>. He said this discussion will be limited to one hour, and all comments will be restricted to three minutes each. Mr. Williams asked that each speaker identify themselves and state whether they are *for or against* BYOB. Mr. Williams said to those who were watching from home, if they cannot attend these meetings, they can call Town Hall or send e-mails with their comments.

Larry Bearfield, owner of Ferns Country Store addressed the packed Clark Room. He said their vision was a commitment to the community. He said they are proposing BYOB hours after the time that kids hang out after school. The days and hours are Monday through Friday from 4-9 pm and Saturday and Sunday 12 -9 p. m. Larry said they have 28 parking spaces in the back of the building and they have only 19 seats inside the building. Larry also noted that only wine and beer can be consumed. Larry added that his employees have received alcohol training courses. He reminded everyone that in order to drink alcoholic beverages, you have to order food.

### **AGAINST**

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Approved: 1-11-2011

Thomas Hedden of 98 E. Riding Drive was opposed to BYOB at Ferns. He spoke about the Union Coffee House. He said the Union Coffee House is constantly brought up in connection with Ferns regarding selling beer and wine.

Ira Sabran of 60 McAllister Drive said he was opposed to BYOB. He said it is up to the Town to establish what is appropriate for Carlisle. He said this was common sense. He could not find anything positive about BYOB. He said it would have a negative impact on our children. Mr. Sabran said the risks outweigh the benefits to the community. He said common sense should prevail.

Tom Doucette of 100 Ember Lane said he opposed this idea because kids go there all the time and adding BYOB is a negative aspect.

### **UNDECIDED**

Yona Carmichael of 94 Laurelwood Drive spoke about the hours and the traffic. She said everyone was talking about walking to Ferns to have a beer. She asked about the people who drive to Ferns for a beer. She wanted to know if they would be able to drive carefully after consuming a few beers. She said she was undecided on this matter of BYOB.

John Lee of 65 Lowell Street said he had concerns on the BYOB issue. Mr. Lee said he appreciates the spark that Ferns has brought to the Town Center. He said Robin and Larry are responsible proprietors; however they don't have control over their patrons. He has significant reservations to the value of the proposal. Mr. Lee also did not like their noise from the delivery trucks at 4:30 a.m. each day.

### **IN FAVOR**

Ralph Anderson of 433 Baldwin Road has been a patron since 1964, and has become an investor in Ferns. He said it is a meeting place. It has been established as a meeting place for residents and he particularly likes the porch. Mr. Anderson felt that this would bring the Town together.

Tom Kilfoyle of 151 Bedford Road said he was a proponent of BYOB and he is looking forward to going to Ferns for food and a drink with his friends.

Stan Durlacher of 922 Concord Street said he was in favor of BOYB in Carlisle [at Ferns]. He said he would give Larry and Robin (Ferns proprietors) the benefit of the doubt to do this and he himself would use the establishment.

Eric Synnestvedt of 187 Tophet Road said he was in favor of the BYOB idea at Ferns because Larry and Robin bring people together.

Amy Mestancik of 135 of Indian Hill thought of Ferns a quaint store, a place to come together. This is a place for responsible drinking.

Ed Dirocco of 360 Westford Street said this was a wonderful idea. It would be a great place to go for a glass of beer.

Greg Fairbanks of 252 Westford Street said he goes to Ferns with his children for pizza, they have milk, and he drinks what he wants. He likes the changes in the Town Center.

Robert West of 201 Clark Farm Road said he supports the BYOB policy. He said the Board of Selectmen can grant permission for BYOB and they can also take it away should there be a problem.

Greg Clark of 117 Munroe Hill Road said the Board should consider the owners, Robin and Larry and their track record. They have put the Town first.

Jason Mestancik of 135 Indian Hill is for BYOB. He thought that having a drink while you eat at Ferns was a good idea. Also, if you were a teen in Carlisle, he felt that you would not go to Ferns to get drunk.

Robert Koning, Jr. of 96 Pheasant Hill Lane said he has been waiting for this particular event to happen. He was very happy with what Robin and Larry have done with the Center of Town.

Casey Smith of 9 Lowell Street said she lives across the street from Ferns and she can see what is going on there during the day. In regards to the hours, she said at 4:00 p.m. the kids generally go home. Therefore she is confident that Larry and Robin will do the right thing by making sure this is the correct time to begin serving alcohol.

Peter Karle of 185 Estabrook Road has been a Carlisle resident for over 15 years. He said he has four children and Ferns has made Carlisle a meeting place and a better place. He supports BYOB.

Grant Wilson of 201 Concord Street agreed with Ralph Anderson. He encouraged the Board to license this because it will be a great legacy for the Town.

David Chaffin of 52 East Street said he felt he was even closer to Ferns than Casey Smith. He said he recently read a letter to the *Mosquito* relative to the traffic and an increase risk to the children. Mr. Chaffin said he trusts Larry and Robin and his neighbors who drive in this Town.

Alan Beecher of 960 North Road said Ferns should be given a chance and if it does not work out, the Board can take the license away.

Peter Carmichael of Laurelwood Drive asked for clarification as to why it is not a license to serve liquor.

John Lee asked if Ferns has restroom facilities. Larry Bearfield said there is a handi-capped, unisex bathroom.

Mr. Williams asked Larry to answer Mr. Carmichael's question as to why he is not seeking a license to serve liquor. Larry said in Massachusetts an establishment can have either a pouring license or a package license. Ferns has a package license. He said when you have a package license you can have 'tastings', which allows you to provide a small amount [of alcohol], with food. BYOB is a provision that was put back on the Town, and the local licensing authority in Carlisle is the Board of Selectmen. The Board decides if they want to allow BYOB, and the hours and the days BYOB can be conducted in the community.

John Livens of 231 Nathan Lane said Ferns has improved the Town and BYOB is just one more element. He loves it.

Mr. Williams said this discussion will continue on January 11, 2011.

On a motion made by Mr. Stevenson and seconded by Mr. Gorecki, it was unanimously **VOTED** to adjourn the meeting.

Respectfully submitted by Margaret deMare

