

**BOARD OF SELECTMEN
MINUTES OF MEETING
JUNE 28, 2012**

I. CALL TO ORDER BY CHAIRMAN

The June 28, 2012, Meeting of the Board of Selectmen was called to Order by Mr. Giblin, Chairman, at 7:00 p.m., held in the First Floor Selectmen's Conference Room in the Municipal Center.

A. Roll Call: Mr. Timothy Giblin, Chairman; Robert W. Kimball, Jr., Vice-Chair; Mr. Robert S. Salvo, Sr., Clerk; Bradford K. Bramwell; and Mrs. Mary T. Steele were present. Mr. Michael Yunits, Town Manager, was also present.

Attorney Gregg Corbo, Town Counsel, of Kopelman and Paige was also present.

B. Pledge of Allegiance

II. WARRANTS AND MINUTES

A. Approve bills Warrant #76, dated June 21, 2012, in the amount of \$135,901.27

MOTION was made by Mr. Salvo to Approve bills Warrant #76, dated June 21, 2012, in the amount of \$135,901.27. Second by Mr. Bramwell. Vote: Unanimous. MOTION CARRIES.

B. Approve bi-weekly payroll for the period ended June 23, 2012, Warrant #77, dated June 28, 2012, in the amount of \$649,037.20

MOTION was made by Mr. Salvo to Approve bi-weekly payroll for the period ended June 23, 2012, Warrant #77, dated June 28, 2012, in the amount of \$649,037.20. Second by Mr. Bramwell. Vote: Unanimous. MOTION CARRIES.

C. Approve bills Warrant #78, dated June 28, 2012, in the amount of \$787,191.30

MOTION was made by Mr. Salvo to Approve bills Warrant #78, dated June 28, 2012, in the amount of \$787,191.30. Second by Mr. Bramwell. Vote: Unanimous. MOTION CARRIES.

D. Minutes – March 29, 2012
April 5, 2012

MOTION was made by Mr. Bramwell to approve the Board of Selectmen Minutes of Meeting, dated March 29, 2012, as written. Second by Mrs. Steele. Vote: Unanimous. MOTION CARRIES.

MOTION was made by Mr. Bramwell to approve the Board of Selectmen Minutes of Meeting, dated April 5, 2012, as written. Second by Mrs. Steele. Vote: Unanimous. MOTION CARRIES.

III. LICENSES AND PERMITS

1. Application of Andrea Falciano for a one-day Beer and Wine license, to be utilized at Everett Leonard Park, August 25, 2012, 2:00 P.M. - 9:00 P.M., for private party.

It was noted this was signed off by Police Chief Clark and no detail is required.

MOTION was made by Mr. Kimball to approve Application of Andrea Falciano for a one-day Beer and Wine license, to be utilized at Everett Leonard Park, August 25, 2012, 2:00 P.M. - 9:00 P.M., for private party, and no detail required per Police Chief. Second by Mr. Bramwell. Vote: Unanimous. MOTION CARRIES.

2. Application of Arnie Larson, Mass Fraternal Order of Police Lodge #28, for a one-day Beer and Wine license, to be utilized at Everett Leonard Park, August 11, 2012, 1:00 P.M. - 6:00 P.M., for private party

This was signed off by Police Chief Clark and no detail is required.

MOTION was made by Mr. Kimball to approve Application of Arnie Larson, Mass Fraternal Order of Police Lodge #28, for a one-day Beer and Wine license, to be utilized at Everett Leonard Park, August 11, 2012, 1:00 P.M. - 6:00 P.M., for private party, and no detail required per Police Chief. Second by Mr. Bramwell. Vote: Unanimous. MOTION CARRIES.

3. Application of Marsha Robbins, for a one-day All Alcohol license, to be utilized at Everett Leonard Park, July 21, 2012, 4:00 P.M. - 8:0 P.M., for private party

It was noted no detail is required per Police Chief Clark.

MOTION was made by Mr. Kimball to approve Application of Marsha Robbins, for a one-day All Alcohol license, to be utilized at Everett Leonard Park, July 21, 2012, 4:00 P.M. - 8:00 P.M., for private party, and no detail required per Police Chief. Second by Mr. Bramwell. Vote: Unanimous. MOTION CARRIES.

4. 7:15 P.M. HEARING – Timothy G. McCarthy d/b/a Alberto's, 241 Mansfield Avenue, Common Victualer All Alcohol License – Alleged liquor license violation on April 12, 2012 – Sale of alcohol to a person under 21 years of age without requesting any identification

Mr. Giblin opened the Hearing by declaring, “The hearing is now open”. The legal notice was read aloud.

Mr. Giblin explained the procedures that the Board will follow in conducting the hearing. It would be in two phases. Testimony from Police Department and testimony from Alberto's representative(s). Attorney Gregg Corbo, Town Counsel, from Kopelman and Paige was also present this evening.

Mr. Giblin swore in the people who would testify.

Police Chief Clark referenced an underage drinking grant Norton Police Dept. received, and on Thursday, April 12, 2012, compliance checks were conducted. A checklist from ABCC was utilized and someone under the age of 21 was asked to purchase alcohol. It was noted the Board of Selectmen had a copy of this checklist distributed to them.

Attorney Corbo asked if Common ABCC guidelines for conducting compliance checks was followed?

Detective Thomas Petersen responded, yes, guidelines were followed.

Detective Petersen said they did notify media prior to this and person used to purchase alcohol should look their age, and reviewed with underage person, and no personal money provided to establishment. Portable breathalyzer test was conducted and it was noted no alcohol was drunk that evening. Not to misrepresent their (the underage purchasing party) age is important. They request to try to get a receipt or physical description or name-tag of server.

Attorney Corbo asked how many compliance checks occurred?

It was noted by Detective Petersen that fifteen occurred.

Detective Petersen explained process: alcoholic beverage to be requested; told to pay with money provided, and if I.D.'d same instructions. They conducted a breathalyzer test and along with Detective Zaccardi the test showed .00 and \$20 of their undercover money was provided. 4:30 p.m. was time this occurred, and minor went to bar area and bartender approached minor and Bud Lite was ordered, and minor paid \$3.00 for drink and left establishment. At conclusion, they conducted this at a couple other establishments and then breathalyzer conducted. A report was then prepared.

Mr. Giblin asked why breathalyzer not given after each visit to each individual establishment?

Detective Petersen responded due to interest of time.

Detective Petersen said also no odor of alcohol was detected. They follow ABCC guidelines.

Mr. McCarthy stated he had no questions when asked by Attorney Corbo.

Attorney Corbo stated that this concludes this portion of hearing and he invited licensee up to podium testify on his own behalf.

Mr. McCarthy stated this incident did happen. How it could happen, he did not know as he is strict. He was present in establishment at time and just walked out of kitchen when it happened, and he knew right away when he saw change in hand of minor. He spoke of all employees serving being TIP certified and now he has produced a policy and procedure manual. He also noted restaurant provides free taxi service to intoxicated people also.

Mr. Kimball said Board members would like a copy of that policy and procedures manual.

Mr. McCarthy said bartender is TIPS certified and has been doing this type of work her entire life. At the time there was no policy and procedures manual in place. He gave bartender a warning and, if needed, a termination would occur.

Attorney Corbo asked Mr. McCarthy if he questioned bartender?

Mr. McCarthy said, yes, and bartender stated to him "Oh My God".

Mr. McCarthy said it looked suspicious to him and person purchasing alcohol did not look 18 but looked close to 21 years of age. He stated he was disappointed this happened.

Attorney Corbo said he will close this evidentiary portion of hearing. Board of Selectmen to now enter deliberation phase. Are facts in evidence a violation and if voted a violation, then determine penalty, and third vote to be findings of fact to support.

MOTION was made by Mrs. Steele to close Hearing. Second by Mr. Bramwell. Vote: Unanimous. MOTION CARRIES. Vote: Unanimous. MOTION CARRIES.

Mr. Giblin stated the Hearing is now closed.

Mr. Kimball said this policy was adopted in May 1997. At that time the Town was inundated with a number of violations. The Board of Selectmen sign off on licenses each year and noted the Town of Norton has a strict policy. He referenced a 30 day suspension. This Board of Selectmen never used dispensing liquor/alcohol to minors. It is important to be consistent and to have no favoritism. In the past, the Board decided to not opt to use dispensing liquor/alcohol to minors. During the 2009 session the Board did not use it. This present Board of Selectmen needs to look at policy and review "Dispensing Liquor/Alcohol to Minors". Mr. Kimball thought a 30 day suspension was too harsh. Have other other steps prior to the 30 day suspension.

Mr. Kimball said he was a sitting member on Board of Selectmen in 1997 when the Board adopted this policy. He felt another meeting was needed to discuss this.

Mrs. Steele agreed with Mr. Kimball. She noted Mr. McCarthy admitted a mistake was made and said Alberto's Restaurant is always the first business to contribute/donate to charities. She believed 30 day suspension may be too harsh but it is important to note it is an important issue. She felt in the event of a second violation, it should be a harder hit. Discussion ensued.

Mr. Giblin said this could be put on next meeting's agenda, and spoke of looking at, at least four options.

Mr. Kimball said Mr. McCarthy does do a lot for the Town and would want to be more specific about amount of days of suspension. Discussion on violation penalties (first violation = one day, etc.).

Mrs. Steele said Mr. McCarthy has had no violations in past. She felt if there was a second violation the Board must be heavy-handed.

Attorney Corbo said goal of dispensing should be partly educational and referenced penalty. Must be consistent and progressive discipline, but also advocate some level of flexibilities in Town's policy. Facts of violations do differ so some use of flexibility. Unique situations can be treated in a unique way. Discussion ensued.

Chief Clark said compliance checks are not conducted every year. Change is not a bad idea but keep flexibility, as that policy works.

Mr. Kimball said Mr. McCarthy created a Policies and Procedures Manual which shows he takes this very seriously.

Mr. McCarthy said, yes, and employees must sign it.

Chief Clark said Mr. McCarthy called him a couple of days after this occurred, and appeared tonight, however it is a serious occurrence.

It was noted a vote was needed as to whether or not this was a violation.

MOTION was made by Mr. Kimball that based on the facts adduced at this hearing, I move that the Board of Selectmen find that Timothy G. McCarthy d/b/a Alberto's violated the following statutes and/or regulations regarding its All Alcohol Beverages License: G.L. c.138, Section 64 – Sale or delivery of alcohol to a person under the age of twenty-one. Second by Mr. Salvo. Vote: Unanimous. MOTION CARRIES.

Discussion on penalty/suspension ensued. Mr. Giblin said he would recommend a one-day suspension. They can choose the day. Alberto's could file an appeal with ABCC if they so desire.

Discussion followed on appeal period.

Mr. Bramwell supported Mr. Giblin regarding the one-day suspension.

Mr. Kimball agreed with one-day suspension and he would have a different opinion if it was not the “sting” type of operation.

Mr. Salvo agreed with the one-day suspension. Mr. McCarthy does not tolerate nonsense in his establishment and runs a good business.

Mr. Giblin appreciated Mr. McCarthy attending this evening and being proactive and originally was thinking of giving a three-day suspension, but after careful consideration, agrees with a one-day suspension.

Mr. Kimball said he wanted to be perfectly clear the Town is pro-business but they will not tolerate this in future.

MOTION was made by Mr. Kimball that based on the violation found by the Board, I move to impose a penalty of a one-day suspension to occur on Monday Sept. 10, 2012. Second by Mr. Bramwell.

Discussion: It was noted by Attorney Corbo that pursuant to G.L. c. 138, appealing to ABCC is actually five days.

Discussion also ensued on day of week suspension to fall on was a Monday, and it was ultimately decided to keep it this day of week (on Monday).

Vote: Roll Call Vote: Mr. Bramwell, Mrs. Steele, Mr. Salvo, Mr. Kimball, and Mr. Giblin all voted In Favor of Motion. MOTION CARRIES.

MOTION was made by Mr. Kimball to that the Board of Selectmen adopt the statement of facts set forth in the April 24, 2012 Incident Report of Norton Police Detective Peterson as the facts supporting this decision. Second by Mr. Bramwell. Vote: Unanimous. MOTION CARRIES.

5. 7:45 P.M. HEARING – Neha Corp. d/b/a Quick Stop, Manager Ramanbhati K. Patel, 250 East Main Street, Retail Package Goods Store Wines and Malt Beverages License – Alleged liquor license violation on April 12, 2012 – Sale of alcohol to a person under 21 years of age without requesting any identification

Mr. Giblin opened the Hearing by declaring, “The hearing is now open”. The legal notice was read aloud.

A “Point of Order” was stated by Mr. Salvo as the incorrect notice was inadvertently read aloud.

The correct notice was read aloud.

Mr. Giblin addressed the procedures that the Board of Selectmen will follow in conducting the hearing.

Mr. Giblin stated this was a public hearing to consider the possible discipline with respect to the All Alcoholic Beverages License for Neha Corp. d/b/a Quick Stop.

The hearing will proceed in two phases: First, the Board will hear testimony from representatives of the Police Department concerning the incident giving rise to this hearing. The Board will then hear testimony from representatives of the license holder. Second, after the evidence has been presented, the hearing will be closed, and the Board will begin its deliberations and render a decision.

All people who would testify were sworn in by Mr. Giblin.

The incident occurred on Thursday, April 12, 2012, and no I.D. (identification) was requested from minor.

Attorney Corbo said on June 4, 2012, Town Manager sent notice to licensed establishment and error in notice stated to be “drunk on” premises, therefore on June 26, 2012, a corrected notice was sent. This is a retail establishment and “not to be drunk on premises” so correction made. Both notices received prior to date of Hearing. It was noted licensee has counsel as well.

Attorney Daniel Rich stated he read report regarding violation. It was noted licensee was admitting to this violation.

Attorney Corbo said he will close this evidentiary portion of hearing and proceed to the next section.

Mrs. Steele said this is Quick Stop's first violation and discussed steps.

Attorney Rich spoke of an additional signage placed in the store. Mr. Patel and employees will attend TIPS training to be certified. Since 1976, Quick Stop has been in business and he is the third owner of store and this is the second time a violation occurred since 1976.

Attorney Corbo referenced Deliberation Phase. Facts are established and need to decide if a penalty will be imposed.

Mr. Giblin said facts were defined and agreed upon.

Mr. Kimball said it is a long-term business and in business a long time. However, he wanted to communicate how very serious this issue is.

MOTION was made by Mr. Kimball that based on the facts adduced at this hearing, that the Board of Selectmen find that Neha Corp. d/b/a Quick Stop violated the following statutes and/or regulations regarding its All Alcoholic Beverages License: G.L. c. 138, Section 138, Sec. 64, - Sale or delivery of alcohol to a person under the age of twenty-one, and based on the violation found by the Board, I move to impose a penalty of a one-day suspension to occur on September 10, 2012. Second by Mr. Bramwell. Vote: Roll Call: Mr. Bramwell, Mrs. Steele, Mr. Salvo, Mr. Kimball, and Mr. Giblin voted In Favor of Motion. MOTION CARRIES.

MOTION was made by Mr. Kimball that the Board of Selectmen accept the Licenses Stipulation and that the Board adopt the statement of facts set forth in the April 24, 2012 Incident Report of Norton Police Detective Peterson as the facts supporting this decision.

Attorney Rich referenced license policy and made recommendation of following Town Counsel advice to Board of Selectmen regarding flexibility, etc.

Mr. Kimball referenced liquor license policy and respectfully requested Police Chief Clark meet to discuss (possibly the next Board meeting of July 12, 2012).

Police Chief Clark said he would check his schedule and report back to Board. He also recommended it being beneficial to check neighboring towns' policies.

Mrs. Steele suggested input from chief as well as detectives may also be helpful.

Attorney Corbo departed meeting.

IV. ANNOUNCEMENTS

V. BUSINESS

A. NEW BUSINESS

1. Vote to authorize Town Manager, Michael D. Yunits, to sign the Memorandum of Understanding and Agreement Among the City of Taunton, MA (the "City"), the Town of Norton ("Norton"), Waste Management of Massachusetts, Inc. ("Tenant/Owner") and Norton Commerce Center Hill Street, LLC ("Developer")

Mr. Yunits stated Waste Management will do all the engineering work on road and to install signalization and re-striping at Myles Standish Blvd. Mr. Giblin asked Board to please review Memorandum of Understanding.

No Action Taken.

B. TOWN MANAGER'S REPORT

1. Taunton Casino

Mr. Yunits said the casino meeting was being rescheduled to July (previously scheduled meeting was canceled). Mr. Giblin said letters may need to be sent out again which were initially sent out. Mr. Giblin said he will talk to Bristol County first, but asked Mr. Yunits to get letters ready.

Mr. Yunits said on July 12, 2012 from 3-6 p.m. at Lakeview Council On Aging meeting to occur with Mass Gaming Commissioner regarding tribal casino.

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Mr. Kimball said he spoke to Senator Timilty recently and they discussed the casino and Senator wrote a letter regarding this issue per Mr. Kimball's request. Mr. Kimball spoke of Norton to be "a co-host community". Mr. Kimball read aloud this specific letter.

Mr. Yunits said the state reps also contacted people regarding this issue.

##### **2. Update – Rain Barrel Requests**

Mr. Yunits said all 60 rain barrels are spoken for already. This was posted on Town website and available for pickup on Monday from 9 a.m. to 3 p.m. at the Highway Dept. before 7/31/12. They will be made available to someone else if not picked up.

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Mr. Eric Tynan graduated from Fire Academy and will start on Norton Fire Dept. on 6/29/12.

Water Bodies Committee meeting to be held on 7/16/12 at 6 p.m.
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Mr. Yunits stated he met with GATRA and they said they would attend a Board of Selectmen meeting in July.

C. APPOINTMENTS/RESIGNATIONS

1. Appointment of Special Police Officer

MOTION was made by Mr. Kimball to accept appointment of Special Police Officer, Nicholas Crugnale, effective 7/1/12. Second by Mr. Bramwell.

Discussion: this Special Police Officer is a supplement to department. Two people resigned and Nicholas is also present this evening. He is a resident of Norton and earned a Bachelors' Degree at U-Mass Dartmouth in criminal justice. He passed background and medical checks, etc.

Vote: Unanimous. MOTION CARRIES.

2. Appointment of Permanent Full-Time Principal Account Clerk in the Treasurer/Collector's Office

MOTION was made by Mr. Kimball to accept appointment of Jeanne Hanlon as Permanent Full-Time Principal Account Clerk in the Treasurer/Collector's Office, effective 7/9/12. Second by Mrs. Steele.

Discussion: Mr. Yunits explained Treasurer's Office received 40 applications and screened down to only a few. A lot of qualified people applied. Treasurer was seeking a person with an accounting background to step right in. Vote: Unanimous. MOTION CARRIES.

3. Boards, Commissions, Committees Reappointments

MOTION was by Mr. Bramwell to appoint the people (as noted on document list dated June 21, 2012) who responded favorably to being reappointed, effective July 1, 2012. Second by Mrs. Steele. Vote: Unanimous. MOTION CARRIES.

Mr. Giblin said an answer/clarification regarding Industrial Commission and any other questionable reappointees was needed.
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Local Housing Partnership Committee members needed; a banker, a real estate person, and two people at large needed. Letters of Interest to be sent to Municipal Center. This particular Committee meets as needed.
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Mr. Yunits said about three people spoke to Dave Leonard about interest in the Water Bodies Committee. Mr. Yunits advised him that people could attend meetings, however, cannot keep adding members due to quorum issue.
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Mr. Salvo said in July, he would like to have the Cemetery Commission invited in to a Board of Selectmen meeting. He believed Norton's fees (for graves, plots, etc.) need to be adjusted since he believes they are very low compared with other communities.

Mr. Giblin said they could possibly invite Cemetery Commission in to the July 26 Board meeting.
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Mrs. Steele thanked all those who worked for/donated to Founder's Day. They did an excellent job.
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Mr. Giblin stated he and Mr. Bramwell met with Town Manager re: Town Manager's Evaluation and will plan to put on next agenda.

VI. SELECTMEN'S REPORT AND MAIL

VII. NEXT MEETING'S AGENDA

1. 7:05 P.M. - Senator James E. Timilty Re: Transportation Bail-Out Bill
2. 7:30 P.M. - Marilyn Edge, Western Bristol County & Foxborough Tobacco & Alcohol Prevention, Re: Update on Tobacco Program
3. Year end transfers

VIII. EXECUTIVE SESSION

1. Re: To discuss strategy with respect to collective bargaining

IX. ADJOURNMENT

MOTION was made by Mr. Kimball to enter into Executive Session at 8:45 p.m. for purpose to discuss strategy with respect to collective bargaining, and to return to Open Session. Second by Mr. Bramwell. Vote: Unanimous. MOTION CARRIES.

Open Session of Board of Selectmen was opened at 9:19 p.m.

All Board of Selectmen Members were present (as noted above).

Board reviewed two different contracts.

MOTION was made by Mrs. Steele to ratify agreement between Town of Norton and SENA B, effective dates of 7/12/12 to 6/30/14. Second by Mr. Kimball. Vote: Unanimous. MOTION CARRIES.

MOTION was made by Mr. Bramwell to ratify agreement between Town of Norton and SENA A, effective dates of 7/12/12-6/30/14. Second by Mr. Salvo. Vote: Unanimous. MOTION CARRIES.

MOTION was made by Mrs. Steele to Adjourn at 9:23 p.m. Second by Mr. Kimball. Vote: Unanimous. MOTION CARRIES.

Respectfully Submitted by:

Janet A. Sweeney, Board of Selectmen - Recording Secretary

**BOARD OF SELECTMEN
MINUTES OF MEETING OF
JUNE 28, 2012**

Timothy R. Giblin, Chairman

Robert W. Kimball, Jr., Vice-Chair

Robert S. Salvo, Sr., Clerk

Mary T. Steele

Bradford K. Bramwell

Date Approved:_____

Documents Distributed/Reviewed at June 28, 2012, Board of Selectmen Meeting

. Public Hearing Protocol Document

. Board of Selectmen Policy Statement regarding Liquor Licenses (Adopted December 2, 1993 and amended May 8, 1997)

. Letter dated June 4, 2012, addressed to Timothy G. McCarthy d/b/a Alberto's, 241 Mansfield Avenue, Norton, MA 02766, from Michael D. Yunits, Town Manager of Norton, re: June 28, 2012 hearing at 7:15 p.m., at the Norton Municipal Center, Norton, MA, re: license violation

. Norton Police Incident Report dated 4/16/12 re: Alberto's Pub and Pizza

. Letter dated June 26, 2012, addressed to Neha Corp. d/b/a Quick Stop, Manager: Ramanbhati K. Patel, 250 East Main Street, Norton, MA 02766, from Michael D. Yunits, Town Manager of Norton, re: June 28, 2012 hearing at 7:45 p.m., at the Norton Municipal Center, Norton, MA, re: license violation

. Norton Police Incident Report dated 4/16/12 re: Quick Stop

. List of potential Reappointees to various Board/Committees, dated 6/21/12