

Selectmen's minutes of meeting August 11, 2014

Members present: Patrick Barrett, Rosario Messina, Jeffrey Gray, Lisa Blackmer,  
Special Town Council Joel Bard from Kopelman and Paige,  
Stephan Harasyko, Dolores Harasyko

Patrick announced that the meeting was being tape recorded.

The public hearing was called to order at 7:05 p.m. on the application for a special permit to construct and operate a fuel station and convenience store.

Ron Fortune present representing Happy Banga. Mr. Banga was not able to be at this meeting. He explained that Mr. Banga is a single operator and has sites in Winsted, Ct and in Lee, MA. He has experience in operating. The Planning Board, Conservation and Board of Health have reviewed and approved the plans. The Board of Health has advised they want a certified stamped copy of the final plans. There will be 4-2 sided gas pumps and 2-2 sided diesel pumps. The property is located across the street from Tuckers. Ron reviewed the property layout. Reviewed the water system, catch basins, interior layout and signage. They have revised the sign from 15 feet in height to 8 feet. Patrick opened the floor for questions.

Marion Karmel from River Road asked about the sublet in the store. Mr. Fortune responded that they don't have any tie ins to the sublet yet but anticipated a sublet such as Duncan Donuts or Subway. She asked about hours of operation and lighting. Mr. Fortune responded that the hours of operation depended on the market demand, it may be 24 hours. The lighting will be LED lighting that would be energy efficient and not give off a glow. Lisa responded that the Selectmen can impose reasonable conditions. Marion asked who the intended market is, Ron responded that it is truck drivers, local and general customer base.

Bogart Muller, 72 S. Main St., asked about a traffic study. Ron said they did submit it to the Mass DOT which will regulate where the curb cuts will be for entry and exit onto Route 8.

Elizabeth Kuzmech, Roosterville Rd. asked why Mr. Banga is not present. Ron responded that he was unavailable for tonight but that his wife and family are present and that he is a legal representative for Mr. Banga. Elizabeth does not like the way it will look. She feels it will close due to no business and the town will be left with a decrepit property. She also asked about \$8.00 an hour jobs.

Maria Domato, Lower West St. is in complete favor of this business. She is 100% in favor of a store and gas station, it will serve the town well to have a convenience store and gas station. She sees no issues with this.

Dawn Pachulski, Roosterville Rd., owns property in the area next to Tuckers. There is a glow from the light from Tuckers and wants to know if they would down size. She realizes we need something in town but this is too large.

Anina Carr, Sears Rd., asked if the Selectmen can say we need a store with gas and add a condition regarding the amounts of gas pumps. Attorney Joel Bard responded that the Selectmen can impose "reasonable conditions". Anina asked if the Selectmen would have to back up the "reasonable conditions" with a legal fact. Mr. Bard responded yes, you have to have factual considerations.

Linda Riiska, New Hartford Rd. liked the idea of having jobs that the seniors could be eligible for which would help seniors pay for their bills. This location is not in the center of town. She has visited Mr. Bangas other locations and does not feel the lighting is an issue. She stated there was much more risk involved in getting in and out of Peter's Store. Ron responded that the pumps are designed for the current standards and all are handicap accessible.

John Skrip, Route 8, asked what the cost of the project is, Ron responded approx. \$2,000,000. John estimates that approx 10,000 cars pass through Sandisfield every day, a few more cars is not going to make a difference. He feels the town needs this. It will provide jobs and taxes for the town.

Bob Greenfield, Deer Run, asked about the status of the previous special permit given for a store and gas station, he wants to know if that was issued, why are we hearing another. Patrick responded that the Selectmen can not limit the amount of applicants. Our bylaws do not limit the amount of stores. It is not up to the Selectmen to make an economic choice.

Gene Riiska is in favor of the store as there is no where nearby to get gas. He also feels that gas station will slow down the traffic on Route 8.

Simon Winchester, Silverbrook Rd. asked if the Selectmen can make their decision based on the public's input and not by the bylaw. Patrick responded that they take the public's input to consider placing conditions on the special permit. He explained that we held a special permit hearing approving a very similar business recently and based on the fact finding placed conditions and gave variances. The Selectmen also have the job of protecting the town from legal problems. Attorney Bard responded that public concerns are considered but legal facts take precedence. The Selectmen cannot decide based on emotional issues but on legal facts.

Barbara Cormier, Norfolk Rd. former owner of Tuckers is in favor of the project. When she owned Tuckers they did a traffic study and the results showed it did not have a great impact.

Sandy Parisky, Sandisfield Rd. does not feel this project compares to the previous one. He feels offering diesel will cause more pollution with idling diesel vehicles. He doesn't feel we need a national fast food chain. He does not like the cookie cutter style.

Kim Paspuletti, S. Beech Plain Rd is the applicant of the other special permit granted for a gas station and convenience store. She addressed the distance of the business to the abutters. She asked if Mr. Banga had the curb cut application, Ron responded that it is with the Mass Dot awaiting approval. She reviewed the location and size of the sign over the canopy on the gas pumps. She does not want a 24 hour business in town. She was granted the hours of 5am to 11 pm and feels this is sufficient. She feels Mr. Banga is a bad businessman. Per Kim, his pumps in Winsted, CT are often out of gas.

Peter Levine, S. Main St. commented on Mr. Banga's store in Lee, MA. It was closed and in deplorable condition and does not want that to happen here.

Maria Domato, Lower West St. reviewed the 2 stations in Otis. The one with 2 pumps is much more hazardous to get in and out of than the larger one with the 4 pump islands. There is a lot more room to maneuver.

Marian Karmel, River Rd. feels if we could lawyer up we could come up with facts and does not feel the town can afford this and can't compete with large corporations.

Attorney Bard responded that regardless of the amount you spend on legal fees, the rules don't change, the fact finding is based on legal facts.

John Kuzmech, Roosterville Rd. stated that they moved here for the peacefulness. He was pleased with the conditions placed regarding the hours of operation and lighting of the Paspuletti's permit. He asked if the lighting would be downward facing and when the lights would be turned off. Ron stated they would all be downward LED lighting.

Gene Riiska, New Hartford Rd. reflected on the process of the Dollar General Store in Sheffield which is a similar situation to this. The town spent a large amount of money for legal fees and lost.

Mary Turek, Sandisfield Rd. commented that Otis people were originally opposed to their having the 2 gas stations and now embrace the businesses. Both stores are always busy. She commented on how often people will stop by her house asking for a gallon of gas because there is no where to get gas and they are running out.

Shandru Paspuletti asked Mary Turek if she was the realtor for Happy Banga. She responded that she was not. She represented John Campetti in the sale.

Kathy Jacobs, Hammertown Rd. feels Mr. Banga would not put 2 million dollars into a project unless it was worth it to him.

Sandy Parisky stated his sympathy is with the town not the people traveling through it. Patrick responded that we don't have the zoning to prevent another store. He hopes that the Strategic Planning Committee can review the bylaws with the Planning Board and work on bylaws that will protect the town.

Patrick asked the other two selectmen to respond.

Lisa explained that we hired Kopelman and Paige as they specialize in the special permit process. She asked if the Selectmen can put conditions as for the aesthetics and cleanliness concerns of the public and could the Selectmen bring Mr. Banga in if these items are not complied with. Attorney Bard responded absolutely.

Patrick asked Gary Bottum, chair of the Planning Board if they had any issues with the plans. Gary responded that they do not have any concerns regarding the setbacks.

Barbara Cormier asked if the Selectmen would be making their decision tonight.

Jeff responded they will need some time to review.

Ron explained that the storage tanks should have been on the agenda for tonight and was left off. He re addressed a previous comment about the Lee Store. Mr. Banga actually left that site due to over charge rent.

Discussed the parking. There will be eight spots plus handicapped parking. Attorney Bard addressed the 100 foot requirements. One requirement is the 100 foot sightline for pulling out onto the road. The other is that the parking is 100 feet from abutters lot lines. Ron responded that they do not have 100 feet from lot lines. There was a variance granted to the Paspuletti's for 60 feet in lieu of 100 feet.

Sandy Parisky pointed out that the Paspuletti's designed their layout with the gas pumps in the back of the building and suggested Mr. Banga do the same. Attorney Bard responded that there would have to be a basis for requiring Mr. Banga to redesign the layout.

Tina Muller, 72 S. Main St. asked what powers the Selectmen have. She would like to see a local person open this business. Attorney Bard responded that they cannot choose a local over a non local. There is not a legal reason to back that decision up.

Linda Riiska feels it is unreasonable to ask Mr. Banga to relocate his gas pumps to the back of the building.

Patrick feels we need time for the fact finding process. He also stated that he is not in favor of a 24 hour business. He would like to continue the meeting to allow time for a thorough fact finding. Ron explained that the weather is a large factor especially in this

area and that they will have a generator backup, this is the main reason for a 24 hour business. They would be available during emergencies and bad weather situations. Simon Winchester wanted for the record if anyone has actually met Mr. Banga. Patrick stated that he was in attendance at the special permit hearing for the Paspuletti's. Dolores also stated she has met him at the town hall on a couple occasions. Discussed and approved continuing the hearing until Sept. 15, 2014 at 7:00 p.m. at the Old Town Hall, 3 Silverbrook Rd. Tonights meeting was packed and the Old Town Hall will provide more room. Bill Price representing the Sandisfield Times will provide all the reporting they can. Discussed the limitations the Open Meeting Law places on the Selectmen. They can only discuss this with each other during an open posted meeting. Public hearing adjourned at 8:45 to be continued on Sept. 15, 2014 at 7p.m. at the Old Town Hall.

Steve provided highway department updates. They continue with the prep work on New Hartford Rd. He has been working with Lisa and Phil on the Strap Grant for Tolland Rd. They are also working on a grant for signs. Reviewed and signed Chapter 90 paperwork for the pothole project.

Motion by Patrick, second by Rosario, passed unanimously to appoint Gary Bottums as the Towns representative to the Berkshire Regional Planning Comm.

Discussed responses to the finance committee's initiatives regarding the school and dpw. Status Reports for all employees, oversight and governance. Lisa has been and will continue to work on job descriptions and policies. John Skrip responded that he wants more transparency. He would like to see monthly reports from all departments. Biometric Time Cards is subject to collective bargaining and cannot be discussed at this time. Kathy Jacobs responded that the Selectmen have a fiduciary responsibility. Cost management of the school. John Skrip, school committee member responded that the budget will go up and feels the selectmen need to meet with the Otis selectmen to look for cuts. Patrick explained in detail the state mandates for student tuition requirements and special needs. DPW fleet management. The finance committee would like to install gps tracking devices on the highway department vehicles. This is also subject to collective bargaining. Privatizing the snow removal and privatizing the dpw. Dolores asked Kathy if the finance committee has considered the additional cost to the town regarding the time clock, gps, cost of unemployment wages, cost of contractors. Kathy does not agree with the figures Patrick and Dolores presented. Patrick responded that since the finance committee did not present any factual numbers he met with town hall staff including DOR and gathered actual numbers to base his findings on. Dolores worked with actual budget numbers we have on record now. Patrick responded that he did the absolute best research based on the initiatives presented by the Finance Comm who did no research. He feels that a board that comes with initiatives such as these should have research and numbers to back up their requests. Dolores asked Kathy how long will it take for the town to actually realize any savings from these initiatives. Kathy did not have an answer. Dolores estimated the actual additional cost to the town will be \$750,000 for the next two years.

Linda Riiska commended the highway department. She does not agree with privatizing the highway department. She is very concerned about response time during snow storms and emergencies. Linda reiterated that Jeff had brought this up in the past and he explained how this would not work. Linda spoke to a private contractor herself and he also confirmed that this would not work for the town and would actually cost the town more money.

Rosario spoke to the collective bargaining issues. He stated that we have a three year contract in place and cannot address these issues until then. He thanked them for their work.

Lisa will prepare a written response to the Finance Committee regarding their initiatives.

Discussed the Selectmen's meetings for September. We will meet on Sept. 8, 15 and 29 with the 22<sup>nd</sup> off. Patrick would like to attend a Selectmen's meeting in another town on the 22<sup>nd</sup>.

Motion by Patrick, second by Rosario, passed unanimously to appoint to the Cultural Council Peter Levine, Anina Carr, Clare English, John Skrip, Connie Canty Donaldson.

Discussed a request from Rita Kasky to be appointed to the Strategic Planning Committee. Lisa addressed the possible issues with this appointment. Since a majority of the Finance Committee will be on the Strategic Planning Committee this will constitute a quorum of the Finance committee. They will have to post joint meetings and invite all members of the finance committee. There could also be a problem when the strategic planning needs approval for budget items such as the master plan from finance and selectmen. Jeff does not feel it is wise to add Rita without further research. Lisa will ask Rita to get a ruling from the Ethics Commission.

Patrick presented a response to an article that was placed in the Sandisfield Times by Rita Kasky that was directed at the entire board. He is asking if he should submit the response from himself only or on behalf of the board. Jeff and Rosario feel the response should be from the board.

Motion by Patrick, second by Rosario, passed unanimously to amend the minutes from May 19, 2014 to show the vote to accept the three year union contract.

Reviewed and signed the warrant for the State Primary.

Patrick asked about the status of the roof for the Town Hall Annex. Jeff explained that he had to put it off a year in his absence but that he will meet with the building inspector and draw up specs so that we can bid the job out this year.

Warrants reviewed and signed

Minutes reviewed and signed

Meeting adjourned at 10:15 p.m.

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Patrick Barrett

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Rosario Messina

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Jeffrey Gray