

On August 16, 2021, on a motion by Susan Brita, seconded by Tom Roche, the DISUC voted 4-0 to approve the meeting minutes of March 10, 2021 with Tom Roche, Susan Brita, Rich Bilski, and Jim Saben voting in favor.

YARMOUTH TOWN CLERK

'21AUG24AM8:45 REC

Town of Yarmouth

**MEETING MINUTES OF THE DRIVE-IN SITE UTILIZATION COMMITTEE MEETING OF
March 10, 2021**

The Yarmouth Drive-In Site Utilization Committee (DISUC) held a Business Meeting at **5:00** p.m. on Wednesday, March 10, 2021 via a Virtual Meeting pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law in response to the COVID-19 pandemic.

Committee Members Present: Tom Roche, Rich Bilski, Susan Brita, Jim Saben, David Reid and Jack McCormack

Members Absent: Bud Nugent

Staff: Kathy Williams, Town Planner; and Karen Greene, Director of Community Development

1. **Meeting Opening:** Chairman Jim Saben opened the virtual meeting at 5:04 PM. A roll call was conducted to establish quorum.
2. **Riverwalk Park and Boardwalk Loop Update:**
Kathy Williams, Town Planner, provided an update on the Riverwalk Park and Boardwalk Loop. Ms. Williams explained that the Town is currently working with its consultant to finalize the design contract for the Park. One member asked what the timeline for the process would be. Ms. Williams responded that once the scope of work is confirmed and the contract is finalized, design should take 12-18 months to complete. It is the Town's hope that construction could commence soon after that period. In coordination with the Community & Economic Development Committee, staff is also working on a scope of services for the event space including a sound study.
3. **Article 97 Restriction Updates:**
Karen Greene, Director of Community Development, provided an update to the committee on discussions with Town Counsel regarding the Article 97 restrictions for this property. Ms. Greene reported that Town Counsel opined that type of events this venue has typically seen (concerts, movies, festivals) do not run afoul of any Article 97 restrictions. However going forward, it was stated that the Town could not license the space to an exclusive vendor for an extended period of time, as this would violate Article 97. Essentially Town Counsel's opinion was that sporadic events from multiple parties on the Drive-In site would be permissible, but not a long-term license to a single party.
4. **Draft memo from Interim Town Administrator to Board of Selectmen:**
Committee members discussed a draft memo from the Interim Town Administrator to the Board of Selectmen regarding recommendations on the usage of the site during the summer of 2021, and the potential for the issuance of an RFP to solicit proposals for events. Committee member David Reid stated that a RFP might not be necessary but rather just have the Town announce the availability of the site and encourage proposals.

A lengthy discussion ensued regarding who in Town would review proposals and make determinations on events. The committee agreed to emphasize this issue to the Board of

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Selectmen, as they will need to assign a point person to be the point of contact for this site. Committee members also agreed to re-emphasize the points that were made in their previous memo submitted to the Board of Selectmen (in November 2020). This includes the recommendation from the Committee that it was never their intention to have this site rented long-term for events, and agreed with Town Counsel's opinion that the Town should not pursue any agreements that offer exclusivity to the site. Committee members also stated that the Town needs to be cognizant of the site's impact on the neighbors, and work to arrive at a frequency/type of event that is agreeable to both the town and neighbors.

5. **Minutes:**

VOTE: On a motion by Susan Brita, seconded by David Reid, the DISUC voted 5-0-1 to approve the meeting minutes of November 12, 2020 with David Reid, Susan Brita, Jack McCormack, Tom Roche, and Jim Saben voting in favor, and Rick Bilski abstaining.

6. **Upcoming Meetings:**

The Drive-In Site Committee will be meeting with the Board of Selectmen on March 16, 2021 to present their recommendations.

7. **Adjournment: VOTE: On a motion by Susan Brita, seconded by David Reid, the DISUC voted unanimously (6-0) to adjourn at 6:32 PM.**

ATTACHMENTS

- March 10, 2021 Agenda
- Script outlining Remote Participation
- Draft Memo from Robert Lawton regarding Drive-In Use Options
- November 12, 2020 Memo from Jim Saben to Mark Forest, Board of Selectmen Chair, regarding Drive-In Site Event Space – Future Use
- Draft Minutes of November 12, 2020

YARMDOUTH TOWN CLERK

*21AUG24AM8:45 REC

Town of Yarmouth

Per M.G.L.: All town and school boards, committees, commissions, and authorities shall post a notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays, and legal holidays. Notice shall contain a listing of topics/agenda that the chair reasonably anticipates will be discussed at the meeting.

YARMOUTH TOWN CLERK

Notice of Meeting

Name of committee, board, etc.:	Drive-In Site Utilization Committee
Date of Meeting:	Wednesday, March 10, 2021
Time:	5:00 PM
Place:	Virtual Meeting

'21 MAR 8 PM 12:26 REC

The meeting will be held by remote participation pursuant to Massachusetts Governor Charles D. Baker's Order Suspending Certain Provisions of the Open Meeting Law dated March 12, 2020. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. An audio or video recording, transcript, or other comprehensive record of proceedings will be posted on the town's website as soon as possible after the meeting.

JOINING THE VIRTUAL MEETING: Members of the public can join the meeting using one of the following methods:

To attend the meeting online, click <https://us02web.zoom.us/j/87240503777> and follow the prompts or navigate to <https://zoom.us/join> and enter meeting/webinar ID **872 4050 3777** and follow the prompts.

- To attend the meeting by dial-in phone, call +1 301 715 8592 and enter meeting ID **872 4050 3777**. The dial-in number can also be used to access the audio while watching the online meeting (if you don't have speakers and/or a microphone).
- Please plan to join the virtual meeting at least five minutes before the start of the meeting to troubleshoot any issues you may have joining.

APPLICANTS OR PRESENTERS:

- Applicants/Presenters will be called upon by the Chair or Moderator during their Agenda item. Applicants/presenters can use the "Raise Hand" button to identify themselves (all participants will be muted, you must be recognized by the Chair to participate).
- Applicants/Presenters attending by dial-in should press *9 to notify the Chair or Moderator of their presence when called upon. The meeting Moderator will un-mute applicants/presenters when they are called upon to speak.

PUBLIC PARTICIPATION: At the discretion of the Chair for Public Meetings, the Chair will invite the audience to comment:

- Online audience members wishing to participate during the public comment section can use the "Raise Hand" button to notify the Chair. All participants will be muted, you must be recognized by the Chair to participate.
- Dial-in audience members wishing to participate during the public comment section should press *9 on their phone to notify the Chair. All participants will be muted, you must be recognized by the Chair to participate.

MEETING MATERIALS:

- Meeting materials will be displayed at the online meeting and are attached to this agenda (available at <http://www.yarmouth.ma.us/AgendaCenter>).

AGENDA (Topics to be discussed):

1. Article 97 Restriction Updates
2. Draft memo from Interim Town Administrator to Board of Selectmen re: Drive In Use and possible RFP – discussion and feedback
3. Riverwalk Park and Boardwalk Loop Updates
4. Upcoming Meetings: March 16, 2021 (tentative - Board of Selectmen)
5. Minutes
 - a. November 3, 2020
 - b. November 12, 2020
6. Adjourn

Posted By (Name):	Karen M. Greene
Signature:	<i>Karen M. Greene</i>

YARMOUTH TOWN CLERK

'21MAR8PM12:26 REC

SCRIPT – Drive-In Site Utilization Committee Meeting:

CHAIR – Opens the Meeting

My name is Jim Saben, and I am the Chairman of the Drive-In Site Utilization Committee. I will begin by taking a roll call for quorum.

David Reid

Jack McCormack

Bud Nugent

Rich Bilski

Tom Roche

Susan Brita

With a quorum present, I will now call the meeting to order. I will ask the Moderator to explain how the remote participation will work before proceeding.

MODERATOR (Staff): As a precautionary measure to reduce the spread of the coronavirus, the March 10, 2021 Drive-In Site Utilization Committee meeting will be held by remote participation. My name is Kyle Pedicini and I am the Yarmouth Economic Development Coordinator and will be serving as Moderator for this virtual meeting.

Although no in-person attendance will be permitted, every effort will be made to ensure that the public can adequately access and participate in the proceedings. Persons who would like to view or listen to this meeting while in progress may do so by watching via this virtual meeting or dialing in to the number provided on the Notice of Meeting. We will also post the meeting to the Town of Yarmouth YouTube Channel for future viewing. Please be patient as we work to overcome any technological challenges with the virtual meeting.

For all Meetings:

- All audience participants enter the virtual meeting muted. Participants will be unmuted if called upon to speak by the Chair or Moderator.
- If you are not speaking, please mute yourself to avoid unnecessary background noise.
- Do not use speakerphone or Bluetooth devices when speaking.
- All votes must be roll call votes.

None of the items on the Agenda include applicants or require a designated public comment period. Public comment is at the discretion of the Chair.

I will now hand the meeting back to the Chair.



TOWN OF YARMOUTH

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Telephone (508) 398-2231, ext. 1271, Fax (508) 398-2365

BOARD OF
SELECTMEN

INTERIM TOWN
ADMINISTRATOR
Robert C. Lawton, Jr.

MEMO

To: Board of Selectman

From: Robert C. Lawton, Jr., Interim Town Administrator

Date:

Subject: Drive-In Use Options

CC: Drive-In Site Utilization Committee

Special Counsel has confirmed that the Town may grant licenses to various vendors, promoters, or entertainers to present various types of entertainment at the former Drive-In site in West Yarmouth. We are not able to grant an exclusive lease to one vendor for an extended period of time, based upon his opinion.

Therefore, I would recommend that the Board of Selectmen authorize proceeding with an RFP to solicit proposals from various vendors to provide entertainment at the Drive-In site under the following conditions:

1. Site will be licensed as-is with the vendor responsible for any and all equipment.
2. Vendor must secure all necessary Town approvals/permits as well as Town Rules and Regulations.
3. Vendor must adhere to Massachusetts and Local COVID-related regulations that are in place at the time of the event.
4. Vendors shall coordinate use of site with and maintain access for Town Staff and Contractors including MIG Corporation and BETA.
5. Access to the Town's Upweller shall not be restricted;
6. Time of Events - Within the hours of 9:00 a.m. to 10:30 p.m. any days of the week;
7. Type of Events - Outdoor movies; music events; festivals, such as a county festival or Irish festival;
8. Noise Level - Noise can be no more that 10 decibels above ambient noise levels taken on the perimeter of the property;
9. Vendor must provide adequate restroom facilities in an amount determined by the Yarmouth Board of Health;
10. Vendor must provide security inside the venue;

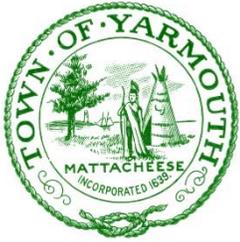
10. 9. Vendor consult with Public Safety (Police and Fire) and is responsible for meeting their requirements including police details onsite and/or for traffic control and for Fire Department Personnel and Equipment determined necessary; Vendor must provide insurance in amounts to protect the Town from liability and damage to the property, with the Town named as an additional insured;
11. Vendor to provide a Cash Performance Bond to ensure return of the property to the condition it was in prior to the event; and
12. Vendor would propose a flat dollar payment to the Town per event or for a total of events, depending upon the specific license granted by the Selectmen.
13. Vendor shall make every effort to coordinate with local businesses able to provide concessions and food for Special Events.

Decision Points for the Board of Selectmen:

- What type of events would the Board consider approving?
- How frequently would the Board like to consider use of the site?
- Would the Board wish to consider alcohol sales on the property?
- What would be the length of each license? One event, or a series of events for a specific number of days or weeks?

Working with the Chair, I will place this item on an upcoming agenda for your consideration.

RCL/maf



TOWN OF YARMOUTH

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Department of
Community
Development

To: Mark Forest, Chairman
Yarmouth Board of Selectmen

From: James K. Saben, Chairman
Drive-In Site Utilization Committee

Date: November 12, 2020
Re: Drive-In Site Event Space – Future Use

At their November 3, 2020 meeting, the Drive-In Site Utilization Committee (DISUC) discussed the October 30, 2020 proposal submitted by Adam Epstein of Innovation Arts & Entertainment for use of the Drive-In Site for next year. The DISUC was planning to outline a series of recommendations to the Board of Selectmen (BOS) in advance of their meeting on November 19th regarding how to move forward with the use of the site, either by Mr. Epstein or in a more general sense. Since that meeting, additional information has become available.

- As the Board is aware, Mr. Adam Epstein withdrew his proposal on Friday, November 6.
- Staff have received inquiries from other potential users (in addition to Mr. Epstein) regarding use of the site next year.
- Staff have met with Town Counsel to discuss use of the site in light of the Article 97 provisions that apply to land taken for recreational purposes, exclusivity of use, and potential procurement issues. Town Counsel has expressed an opinion that the activities performed under the original license could reasonably be construed to be consistent with the restrictions on the property, based upon the unique circumstances; but Town Counsel expressed significant reservations about whether the extent of what was proposed by Mr. Epstein in his October 20, 2020 proposal would be permissible under the present circumstances. It is our understanding that additional guidance will be provided to the Board by Town Counsel in advance of their November 19th meeting.

This memo is offered to the Board in the spirit of providing feedback from the DISUC regarding our concerns and recommendations for any use of the site for future events. These concerns and recommendations are based on the experiences of this past year, feedback from the public, and feedback from the business community. The DISUC recognizes and appreciates the success displayed by Mr. Epstein's venture as well as the direct and indirect economic benefit for the local business community during the difficult COVID-19 environment. They also recognize the significant impact on the quality of life for residents living near the Drive-In site.

Concerns and recommendations are also made in light of long-term plans for the site as a Riverwalk Park and Boardwalk Loop. While this past summer's unprecedented COVID-19 environment provided the Town with a vibrant interim use for the Drive In Site, this opportunity was unplanned and has unexpectedly consumed a great deal of staff time, ultimately slowing down efforts to move the long-term plan forward.

As the licensing authority for the site, it may be helpful for the Board to develop guidelines for potential users concerning the types of uses sought by the Board. The DISUC stands ready to assist, but emphasizes that direction from the Board is necessary to move forward, particularly as it relates to the following:

Sound

Given the large number of complaints received by the Town regarding noise associated with concerts that were performed this past season, the DISUC recommends that the Town engage a sound engineer to evaluate site acoustics, potential sound systems/site layouts, and various sound mitigation efforts to determine an acceptable level of sound. Any proposal for use of the site should be required to demonstrate how layout/amplification will mitigate sound impacts on the neighbors.

Alcohol

Understanding the importance of alcohol sales as a revenue source for some events, the DISUC recommends that the Board consider whether and under what circumstances they are willing to issue alcohol licenses for special events at the Drive-In Site. While individual license applications would still need to be acted upon on a case-by-case basis, general guidance would be helpful to potential applicants.

Event Characteristics Related to Sound

Other event characteristics that impact sound should also be discussed. These include the mix of events (community events/types of concerts/shows/movies), size or scale of events, frequency of events and hours of operation. Comments from the public regarding this past year's use are primarily associated with the concert events. There were few complaints regarding movies and/or comedy shows. The Board may want to consider whether fewer or a specified number of concerts would be acceptable.

Exclusivity

The consensus of the DISUC is that a single-user model (for an entire season) for the site was never envisioned and the Committee recommends that use of the site by others be encouraged. This recommendation, however, is complicated by the possibility that the primary user may seek to keep equipment/infrastructure on-site, even when not in use, and that equipment may need to be secured. It may be that areas of the site can be identified for use and associated licensing. Additional guidance on whether and under what terms exclusive operation of the site can occur should be sought from Town Counsel.

Infrastructure

The DISUC recommends that the Town utilize any proceeds from use of the site for site-specific improvements. Site improvements include, but are not limited to, electricity, water, sound barriers, site grading and turf improvements. In the longer term, site improvements could also mean permanent structures such as a band shell or bathroom facilities.

Public Benefit

The use of the site, a public asset, needs to generate public benefit. While this includes direct and indirect economic benefit to the business community, it should also include provisions for community-based events. Successful events that occurred at the Drive In Site this past year included a Halloween Event sponsored by the Yarmouth Chamber of Commerce/Yarmouth Recreation Department and an Employee Appreciation Night sponsored by a local Bank.

Parking

This year's events all involved on-site vehicle parking, with the attendees remaining in or around their vehicles, but the proposal for 2021 submitted by Mr. Epstein included events where attendees would park off site and remain in defined areas for the events. Any proposed use of the site should be accompanied by a comprehensive parking plan that clearly identifies on-site and off-site parking to accommodate attendance. If off-site parking is proposed with shuttle services, for example, details of such a service needs to be provided.

Coordination

The DISUC recommends that the Board of Selectmen identify a lead entity with whom to negotiate site use. As the licensing authority, the Board might consider designating a Board Member for this role.

In general, as we continue to develop the "brand" of the Drive-In site, providing potential users with our experience from past events and guidance for future events will hopefully make the process more user-friendly and efficient. We would like to promote the appropriate use of the site by continuing to refine the process for the benefit of the users, the business community, the neighbors of the site and the Town.

We look forward to discussing these items in more depth with the Board of Selectmen to move forward with final development of the Riverwalk Park and Boardwalk and the successful use of the site for events.

On X, on a motion by X, seconded by X, the DISUC Committee voted (X-X-X2) to approve the minutes of November 12, 2020.

Town of Yarmouth

**MEETING MINUTES OF THE DRIVE-IN SITE UTILIZATION COMMITTEE MEETING OF
November 12, 2020**

The Yarmouth Drive-In Site Utilization Committee (DISUC) held a Business Meeting at **4:00** p.m. on **Thursday, November 12, 2020** via a Virtual Meeting pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law in response to the COVID-19 pandemic.

Committee Members Present: Tom Roche, Bud Nugent, Susan Brita, Jim Saben, David Reid and Jack McCormack (arrived at 4:25)

Members Absent: Rich Bilski

Staff: Kathy Williams, Town Planner; and Karen Greene, Director of Community Development

1. **Meeting Opening:** Chairman Jim Saben opened the virtual meeting at 4:04 PM. A roll call was conducted to establish quorum.
2. **Discussion of Use of Drive-In Site for 2021:** As a follow-up to the November 3, 2020 DISUC meeting, the Committee reviewed the attached Draft redlined Memo to the Board of Selectmen (BOS) offering their input on future use of the drive-in site. The intent is to present this information at a special November 19, 2020 BOS meeting.

Jim Saben began the discussions by noting his appreciation for input received as part of the discussions on the event space and future uses. He noted that the DISUC is an advisory Committee to the Board of Selectmen (BOS) with no enforcement authority. Direction is needed from the BOS as the policy makers on how best to move forward with events or any Request for Proposal (RFPs) for use of the site.

The Board reviewed the attached redline Memo which provided recommendations and requested input from the BOS on sound, frequency and types of events, alcohol sales, exclusive use of the site, infrastructure, public benefits of the uses, parking requirements and coordination. Specific discussion topics included withdrawal of the proposal by Adam Epstein of iAE; receipt of inquiries from other potential users for the property; having proceeds from use of the site go towards improvements to the site (i.e. short term for events such as cleanup/grass and long term for maintenance); need to focus on the long term goals of design/permitting of the full project and not just the short term interim uses; keeping recommendations generic to address multiple proposals; balancing use of the site and frequency with abutter concerns; and need for further input from Town Counsel regarding permissible uses for site (short and long term). The Committee also discussed the redline edits regarding coordination for negotiations for use of the site and whether this should be a BOS member. After discussing whether to change "*might* consider designating a Board Member for this role" to "*should* designate a Board Member for this role", the Committee consensus was to leave it as "*might*". Ultimately no modifications were made to the attached redlined Memo. Also briefly discussed the 11/19/20 BOS Agenda and DISUC member availability to attend. Jim Saben and David Reid noted they likely would not be able to attend.

On X, on a motion by X, seconded by X, the DISUC Committee voted (X-X-X2) to approve the minutes of November 12, 2020.

Chairman Jim Saben recognized meeting attendee Raymond Dewey, a resident of the abutting neighborhood to the west of the site. Mr. Dewey noted the concerns from use of the site in 2020 and discussed the need to evaluate capacity of the site through an unbiased study. He also felt that level of use was not appropriate for the drive-in property. Mr. Reid noted that this level of impact was not anticipated and he would not want to see it repeated.

3. **Upcoming Meetings:** November 19, 2020 (Board of Selectmen)
4. **Adjournment: VOTE:** On a motion by Tom Roche, seconded by Jack McCormack, the DISUC voted unanimously (6-0) to adjourn at 5:02 PM.

ATTACHMENTS:

- 11/12/20 DISUC Agenda
- Draft November 12, 2020 DISUC Memo to Board of Selectmen. Redlined version of Memo presented at the DISUC Meeting.