



Board of Selectmen Regular Meeting Minutes August 16, 2016

The regular meeting was called to order at approximately 6:00 p.m. in the Town Hall Hearing Room by Chairman Jim Quirk. Selectmen present: Tracy Post, Mike Stone, and Erik Tolley. Also attending: Interim Town Administrator, Peter Johnson-Staub.

1. Public Announcements & Comments.

Arthur Luke Bicycle Presentation. Mr. Arthur Luke explained the need for the Yarmouth Police Department needing electronic bicycles to patrol the rail trail bike path and on the beaches. Mr. Luke presented Chief Frederickson with a check for \$7,785.00 to purchase the bikes. Chief Frederickson thanked Mr. Luke for his generosity and his many years of service to the town as a former Selectman and business owner.

Fire Chief Simonian and Deputy Chief Sawyer recognized Fire Alarm Operator Christopher Ruell for his service on August 4 where he was able to provide life-saving instructions to an individual, prior to the EMS personnel arriving, which saved a baby's life. For his actions, the Yarmouth Fire Department Achievement Award was presented to Fire Alarm Operator Ruell. Deputy Chief Sawyer also commented that a Certificate of Achievement will be presented to the baby's cousin who performed CPR.

Ms. Vida Morris commented that Town Planner Kathy Williams and Director of Community Development Karen Greene should be called before the Board to explain their reasoning for pursuing the housing development on Route 28. Her concern is the density of population already located in that vicinity.

2. Public Hearings

Chairman Quirk turned the meeting over to Licensing Chairman Stone.

a. Show Cause Hearing for Primavera Restaurant. Mr. A. J. Black, owner of Primavera Restaurant, was present for the hearing. Selectman Stone read the certified letter mailed to the restaurant manager, Mr. Dylan Ray Barker, on July 8, 2016 advising him of this show cause hearing. Selectman Stone informed Mr. Black that since this hearing could potentially have an effect on the license, he swore in Mr. Black and Officer Phil Magnuson.

Officer Magnuson explained when the notices were sent to all alcohol licensees regarding mandatory attendance at an alcohol compliance seminar presented by the Yarmouth Police Department. He further explained he personally called the restaurant to inform them of the seminar. Mr. Black explained to the Board the circumstances affecting his ability to attend the seminar in that an emergency required his presence out of town and his manager was undergoing medical treatment. He offered his apology for not complying and stated that it was his responsibility to comply with the training and it is his intention to correct this deficiency at the earliest opportunity.

Mr. Stone queried Mr. Black concerning the dates he received phone calls and/or emails from Officer Magnuson advising the dates of the seminars. Mr. Black responded with the timeline of when he either received or was notified of the seminar dates. He again apologized for missing the seminar and stands ready to correct this deficiency. Officer Magnuson stated he has offered to be available to Mr. Black to go over the requirements and provide any information and assistance he may need to comply with the rules and regulations.

The Board discussed the options available to them in terms of a finding and any future actions that might be required if Mr. Black fails to meet the terms of the Board's judgment for this violation. Officer Magnuson suggested that the Board find that a violation has occurred, to issue a warning to Mr. Black, and require that he meet with Officer Magnuson for training and a compliance inspection. Should Mr. Black fail the compliance inspection, it would result in another violation. Selectman Tolley stated that he is appreciative of Officer Magnuson's graciousness to offer his time to train and inspect Mr. Black's restaurant as well as Mr. Black being forthright and apologetic in admitting he did violate the rules and regulations. However, Mr. Tolley does not want to see the Board in the position in the future of having numerous violations before the Board. He does not want to see YPD or Officer Magnuson in the position of providing individual training sessions for any future violations of this type and therefore supports the decision to find that a violation has occurred.

Selectmen Post stated her biggest concern is that Mr. Black knew in December that this new rule was in effect and did not contact Officer Magnuson until August.

Chairman Quirk commented that as a new rule and regulation, any future violations may not have the same circumstances surrounding the violation as this case does and should not be dealt with in the same manner. He further stated that the Board should take into consideration the circumstances outlined by Mr. Black for being unable to comply.

MOTION: To move that the Board of Selectmen close the public hearing.

Motion by: Erik Tolley

Seconded by: Jim Quirk

Yea 4 Nay 0

MOTION: To move that the Board of Selectmen find that a violation to Section 1.11, Chapter 60 of the Yarmouth Town Code Rules and Regulations has occurred.

Motion by: Tracy Post

Seconded by: Erik Tolley

Yea 3 Nay 1

MOTION: To move that the Board of Selectmen issue a warning and require Mr. Black and his managers to meet with Officer Magnuson within 30 days and to attend the seminar in 2017.

Motion by: Tracy Post

Seconded by: Erik Tolley

Yea 3 Nay 1

b. Change of Manager for Luke's Liquors. John Pomeroy, Assistant General Manager, and Mr. Craig Kingston, the requested new manager, were present to represent Luke's Liquors. Selectman Stone reviewed the application and indicated everything seemed to be in order.

MOTION: To move that the Board of Selectmen close the public hearing.

Motion by: Erik Tolley

Seconded by: Tracy Post

Yea 4 Nay 0

MOTION: To move that the Board of Selectmen approve the change of manager application for Luke's Liquors, as submitted.

Motion by: Tracy Post

Seconded by: Erik Tolley

Yea 4 Nay 0

3. Bass River Farmer's Market Request for Relief

Mr. Johnson-Staub informed the Board that Ms. Carlene Veara contacted the Town Administrator's Office this afternoon to inform us that Mr. Fitzsimmons, pro bono attorney for the Farmer's Market who was scheduled to represent the Farmer's Market at this meeting, had a family emergency and asked that he be rescheduled to the August 30th meeting. Chairman Quirk asked if we would allow the Farmer's Market to continue the status quo until the next meeting or if a cease and desist order has been issued to the Market. Building Commission Mark Grylls was present and informed the Board that he spoke with Mr. Fitzsimmons and told him he would withhold a cease and desist order until the matter was straightened out by the Board.

MOTION: To move that the Board of Selectmen move the Farmer's Market's request for relief agenda item to the August 30, 2016 meeting.

Motion by: Erik Tolley

Seconded by: Mike Stone

Yea 4 Nay 0

4. Committee Reports

a. Conservation Commission. Tom Durkin, Vice-Chairman of the Conservation Commission, and Ms. Kelly Grant, Conservation Administrator, were present for the meeting. Mr. Durkin informed the Board that the Chairman, Mr. Ed Hoopes, is unable to attend the meeting due to a professional commitment. Mr. Durkin explained the Commission's mission is to preserve our natural resources through prudent management and careful utilization. He outlined the expertise the Commission members hold in the area of conservation. Ms. Grant mentioned an email from Selectman Holcomb regarding Bass Hole which he wanted to be made part of the record. Ms. Grant indicated that the Bass Hole issue is an agenda item for the September 13, 2016 Board of Selectmen meeting.

Ms. Grant provided an overview of the Conservation Commission's activities over the past year in that 23 public meetings were held, 68 permits were issued which included 43 orders of conditions, 25 determinations of applicability, as well as 37 certificates of compliance, all of which relate to the Wetland Protection Act. The Conservation Administrator provided extensive guidance and assistance to the public, answering questions, providing information, administratively reviewing minor projects, and informally reviewing proposed work. Ms. Grant indicated she has been working with Town Planner Kathy Williams on permitting of the Packet Landing Pavilion project and expects that project to be before the Commission in September. Additionally, the Commission is drafting revisions of the by-law regulations to address structures on fresh-water ponds.

Mr. Johnson-Staub read a written statement from Selectman Holcomb into the record. Vice-Chairman Durkin asked to respond to Mr. Holcomb's email. Ms. Grant stated that the salt marsh is rigidly protected by Massachusetts state regulations and the Yarmouth Wetland Protection bylaws. She further explained that salt marshes act as flood protection for homes and serve as a nursery and food source for marine fisheries. Chairman Quirk commented that he served on the Conservation Commission for ten years and feels the protections of Bass Hole and Gray's Beach are perfect examples of over-regulation. Selectman Post asked if there is anything that can be done to maintain the beach area as it is now without violating regulatory restrictions. Ms. Grant stated the Commission is meeting this week to discuss options for Bass Hole and those options can be discussed with the Board at the September 13th meeting.

b. Board of Health. Health Director Bruce Murphy introduced Ms. Debra Bruinooge who is awaiting appointment to the Board of Health pending the Board of Selectmen's board and committee actions later in this meeting. He also introduced Dr. Hillard Boskey, Chairman of the

Board of Health. Mr. Murphy provided an overview of the Board of Health's activities for the past year to include the meetings held, variance requests, hearing violation meetings for tobacco and animal regulations, and a hearing for condemnation of a dwelling. The Board of Health also held discussions on drug enforcement/drug awareness, synthetic marijuana, a food service rating program and human service funding requests. The Board also conducted informal presentations on Zika virus, mosquitoes, rabies baiting, and the town water supply. Future topics for the Board include the food service grading program, the drug awareness committee, and the synthetic marijuana regulation.

Chairman Quirk asked about the presentations the Board of Health has conducted and specifically the Zika virus presentation. Dr. Boskey explained to the Board that the Zika virus presentation was an informational and educational presentation. Director Murphy also stated that the Board of Health maintains contact with the Cape Cod Mosquito Control Board that does testing and baiting around the Cape and the town. Mr. Quirk also asked Director Murphy if the Board of Health is involved with the review process for the Cavalier redevelopment project. Mr. Murphy stated he attends site plan review meetings, the engineering firm's planning meetings, and the wastewater design meetings.

Selectman Tolley asked that the Board appoint Ms. Bruinooge to the Yarmouth Board of Health while she is present for this meeting.

MOTION: To move that the Board of Selectmen appoint Debra Bruinooge to the Town of Yarmouth's Board of Health to fill a regular (unexpired) term which will run through October 2017.

Motion by: Jim Quirk

Seconded by: Tracy Post

Yea 4 Nay 0

Dr. Boskey commented that one of the things he sees as most important that the Board of Health does is deal with substances such as tobacco, opiates, synthetic marijuana, etc., which makes the town safer.

Selectman Stone asked about the food service grading program mentioned on the Board of Health's list of activities. Dr. Boskey explained that the intention of the grading system is to provide cleanliness and safety benefits to the public. The program is in a very preliminary stage at this time. Mr. Stone also asked if there was a systemic problem of cleanliness and/or safety with the restaurants in Yarmouth. Mr. Murphy stated there was not a systemic problem with the town's restaurants and the vast majority would probably get an A rating.

Selectman Stone asked about the synthetic marijuana regulation and any non-compliance issues with the regulation. Dr. Boskey commented that the county model regulation that the Board of Health reviewed was very poorly written. He hopes the county will rewrite the regulation so the Board of Health can edit for the town's use. Selectman Post asked if the Board of Health will be prepared to take a position on the legalization of marijuana ballot question. Mr. Murphy stated that the Substance Abuse Committee will be discussing this matter in the fall and will then make its way to the Board of Health.

c. Cemetery Ad Hoc Committee. Speaking on behalf of the committee, Megan Homer provided an overview of the inception of the Cemetery Ad Hoc Committee, the revised charge provided by the Selectmen, and the extension of the committee's charge which added four areas to address: public outreach, signage, incorporation of the recommendations into the rules and regulations, and to better define ornamentation. The committee held a public meeting on March 12, 2016; approximately 15 people attended. Numerous topics were discussed including changes to

the rules and regulations, decorations, plants and trees, and better use of the town's website or social media to disseminate information.

The committee agreed to research signage used at other cemeteries in surrounding towns. The committee provided recommendations for what they feel would be appropriate signage for town cemeteries to include placement, materials, size, colors, and the information to appear on the signage. The committee provided proposed updated rules and regulations which include the committee's recommendations.

Chairman Quirk asked the committee how they contacted people to attend the public meeting. Ms. Barbara Benoit explained that they used the list of people from the original meeting held in May. The committee mailed or emailed those individuals, a notice was also placed in The Register a couple of times, and the committee kept a sign-in list from the March meeting.

Selectman Tolley commented that he was satisfied with the committee's work and the proposed rules and regulations and commented particularly on the idea of containment for ornamentation rather than trying to define what is or is not allowed or is considered ornamentation. He asked if the "advisory board" mentioned in the proposed rules and regulations is meant to mean permanent "cemetery commissioners" or if the ad hoc committee should be made a permanent committee or commissioner. Selectman Stone thanked the committee for their work and stated he believes the committee should continue in some form. Selectman Post also thanked the committee for their very thoughtful and detailed work and would like to see a permanent entity for the cemeteries in whatever form that should take. Ms. Post also asked if the proposed rules and regulations were sent out to the people who attended the public meeting for their feedback. Ms. Homer stated that the committee's proposed changes were discussed at the public meeting in March.

Chairman Quirk also thanked the committee for their thoughtful work and recommendations to the Board. He commented that our cemeteries are part of who we are in the town and it is our responsibility to ensure our ancestors are taken care of properly. He also supports a permanent committee in some form and asked the current members to be a part of that committee. Selectman Post asked that an agenda item be added to formally adopt the rules and regulations. Selectman Tolley mentioned that the ad hoc committee was formed for a six month period and then extended for an additional six months so the Board needs to take some action with regard to formalizing the committee. He suggested that the ad hoc committee be extended for an indefinite period of time to allow a permanent charge to be drafted, public hearings to be scheduled, and committee members to think about committing to a permanent committee. The Board discussed a date to bring the committee back to form the permanent committee, review a draft charge for the committee, and to adopt the rules and regulations. The committee will come back to the September 27, 2016 meeting to again address adoption of the rules and regulations.

MOTION: To move that the Board of Selectmen extend the Cemetery Ad Hoc Committee until January 1, 2017.

Motion by: Erik Tolley

Seconded by: Mike Stone

Yea 4 Nay 0

5. Assembly/County Administrator Update

Ms. Suzanne McAuliffe, Yarmouth representative to the Assembly of Delegates, commented that the county has had numerous presentations on mosquito and tick-borne viruses and if the Board would like additional information or presentations the county is certainly able to provide that

information. Ms. McAuliffe then introduced Mr. Jack Yunits, the new county administrator. Mr. Yunits thanked the Board for inviting him and for the assistance from Yarmouth's Finance Department to the county by way of personnel and training to update and upgrade the county's automated financial system. Mr. Yunits also mentioned another project the county and Yarmouth are working on is the energy park and thanked Yarmouth for being in the lead for waste, compost, and wastewater. He also mentioned the partnership with Dennis and Yarmouth for the oyster seedlings and that project and economic engine for the towns and county that could not have happened without the volunteer workers from AmeriCorp.

Mr. Yunits also discussed more recent health data that shows the nitrogen issue is far more widespread and that there are many more contributors to the nitrogen problem than originally thought. This data will cause the wastewater issue to become even more important. He looks forward to working with Yarmouth on these issues and hopes to be able to facilitate partnerships between municipalities, businesses, and residents to make the wastewater project a reality.

Mr. Yunits discussed some other initiatives the county is working on such as county-wide educational seminars which would reduce the costs to the towns dramatically. The county will contact the towns to identify the types of seminars the towns would like to see. The county is also looking at the court system buildings and will be putting a feasibility study together to identify the best approach to upgrading or replacing the court buildings.

The Board discussed the very serious issue of mosquito and tick control on the Cape and suggested the health departments need to be more aware of and proactive in the area of health issues education and precautions the public need to be aware of, particularly for the tick issue. The Board thanked Mr. Yunits for briefing the Board on projects the county is working on welcomed him back in the future.

6. Board of Selectmen

a. Board and Committee Actions

1) Selectman Tolley asked the Board to reappoint Mr. Brad Goodwin to the Planning Board for a three-year unexpired term to run through July 2018.

MOTION: To move that the Board of Selectman reappoint Brad Goodwin to the Planning Board for a three-year unexpired term to run through July 2018.

Motion by: Tracy Post

Seconded by: Mike Stone

Yea 4 Nay 0

2) Selectman Tolley asked the Board to reappoint Dorcas McGurrin and Steve Sozanski to the Recreation Commission for three-year terms to run through July 2019.

MOTION: To move that the Board of Selectman reappoint Dorcas McGurrin and Steve Sozanski to the Recreation Commission for three-year terms to run through July 2019.

Motion by: Jim Quirk

Seconded by: Tracy Post

Yea 4 Nay 0

3) Selectman Tolley asked the Board to reappoint Joyce Flynn as a regular member to the Town of Yarmouth's Energy Committee for a three-year term to run through November 2018.

MOTION: To move that the Board of Selectman reappoint Joyce Flynn as a regular member to the Town of Yarmouth's Energy Committee for a three-year term to run through November 2018.

Motion by: Jim Quirk

Seconded by: Mike Stone

Yea 4 Nay 0

4) Selectman Tolley asked the Board to reappoint Joyce Flynn as the Town of Yarmouth's representative to the Cape Light Compact for a three-year term to run through November 2018.

MOTION: To move that the Board of Selectman reappoint Joyce Flynn as the Town of Yarmouth's representative to the Cape Light Compact for a three-year term to run through November 2018.

Motion by: Jim Quirk

Seconded by: Mike Stone

Yea 4 Nay 0

b. Upcoming Agenda Review. Mr. Johnson-Staub briefed the Board on one change to the August 30th meeting which is the special wine and malt entertainment license for the Y-D Hockey group has been withdrawn. The Farmer's Market's request for relief, which was postponed from tonight's meeting needs to be added to the August 30th meeting.

A discussion was held on the focus for the upcoming town meeting attendance agenda item and whether a survey should be conducted or some other mechanism for obtaining resident input. The Board also discussed the town administrator interview date, which has several Saturday dates in November as placeholders. Mr. Tolley stated he would make himself available on the date that is amenable to the rest of the Board. Ms. Post asked for additional time as she has a commitment in November but does not have a specific date at this time.

c. Individual Items. Chairman Quirk offered his condolences to the family of Jim Collins, a former member of the School Committee who recently passed away.

7. Town Administrator's Items

a. Consent Agenda:

- Proposed Memorandum of Agreement re: Temporary Assistance to Barnstable County.

- Letter to BOS from Cape & Islands Suicide Prevention Coalition dated August 2, 2016 re: Request for Proclamation

Donations:

- Parks & Rec
 - George Finn \$150.00
 - Kim Highfield \$150.00
 - Paul Corrado \$150.00
 - Andrew Sims \$150.00
 - Susan Nunamaker \$150.00
 - Jerome Lindauer \$150.00
 - Jane Coelho \$150.00
- YPD
 - The Luke Family \$7,785.00

TOTAL **\$8,835.00**

MOTION: To move that the Board of Selectmen approve the Consent Agenda as presented.

Motion by: Erik Tolley Seconded by: Mike Stone Yea 4 Nay 0

b. Town Administrator Updates. None.

8. Adjourn

MOTION: To move that the Board of Selectmen adjourn the meeting.

Motion by: Tracy Post Seconded by: Erik Tolley Yea 4 Nay 0

Respectfully submitted,



Linda Dennehy

DISTRIBUTED MATERIAL AGENDA PACKET

- Letter to Trevi Restaurant Group, Co., dba Primavera from Interim Town Administrator dated July 8, 2016 re: Show Cause Hearing
- Change of Manager Application from Luke's Liquors
- Letter to BOS from Bass River Farmer's Market dated August 4, 2016 re: Request for Relief for Remainder of 2016 Season
- Memo to BOS from Chairman, Conservation Commission dated August 10, 2016 re: Conservation Commission Annual Meeting with the Board of Selectmen
- Annual Update to BOS from Board of Health
- Annual Update to BOS from Cemetery Ad Hoc Committee
- Memo to BOS from Appointments Chairman dated August 8, 2016 re: Planning Board Reappointment
- Memo to BOS from Appointments Chairman dated August 8, 2016 re: Recreation Commission Reappointments
- Memo to BOS from Appointments Chairman dated August 8, 2016 re: Energy Committee Reappointment
- Memo to BOS from Appointments Chairman dated August 8, 2016 re: Town of Yarmouth Representative to Cape Light Compact Reappointment
- Memo to BOS from Appointments Chairman dated August 9, 2016 re: Board of Health Appointment
- BOS Projected 2016 Agenda Items
- Memo to Interim Town Administrator from Finance Director dated August 4, 2016 re: Temporary Assistance to Barnstable County
- Letter to BOS from Cape & Islands Suicide Prevention Coalition dated August 2, 2016 re: Request for Proclamation
- Memo to BOS from YPD dated July 27, 2016 re: Donation Approval Request
- Memo to BOS from Parks & Recreation dated August 1, 2016 re: Donations
- Letter to Director of Community Development from Dakota Partners dated August 9, 2016 re: Cavalier Motel Site Redevelopment Project
- Letter from Yarmouth Seaside Festival Parade Committee dated August 2016 re: Yarmouth Seaside Festival
- Town of Yarmouth Community Preservation Annual Meeting