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TOWN CLERK
HARWICH, MA

2022 JUN 14 P 2:00

MINUTES
SELECTMEN'S MEETING
TOWN HALL
GRIFFIN ROOM
MONDAY, JANUARY 31, 2022
6:30 PM REGULAR MEETING
REMOTE PARTICIPATION OPTIONAL

APPROVED

RELEASED

SELECTMEN PARTICIPATING: Michael MacAskill, Julie Kavanagh, Larry Ballantine, Donald Howell and Mary Anderson

ALSO PARTICIPATING: Town Administrator Joseph F. Powers

CALL TO ORDER:

Chairman MacAskill opened the Board of Selectmen's meeting for January 31, 2022 at 6:30 PM. He invited all attendees to join him in the Pledge of Allegiance.

PUBLIC COMMENTS/ANNOUNCEMENTS

Mr. Ballantine comment on an event at Monomoy High School honoring Mr. Dixon's civic class that put forward the Bridges for the Fallen in recognition of veterans with injuries. He read the proclamation in honor of them. He noted that it took these students a couple of years to get through the process which they did with some guidance but mostly on their own.

Mr. Dixon gave a brief history and summary of the program. He thanked the Board for the recognition.

Rob Mador with Bridges for the Fallen spoke about the organization, he is proud of what they do and what the students did.

Carolyn Carey Community Center Director reported that Saturday, February 5th is the Duck Toss. She invited everyone to come celebrate the Community Center's 22nd birthday.

PUBLIC HEARING

- A. Discussion and possible vote to approve the New Outdoor, Weekday and Sunday entertainment license application - Beachlight, LLC d/b/a Seal Pub & Cafe - 703 Main Street
Request: Weekday Entertainment (Thursday, Friday, Saturday only) 6:00 PM to 10:00 PM
Outside and Sunday 6:00 PM to 10:00 PM Outside Entertainment Type: Recorded or live music, acoustic music only

Ms. Anderson read the Public Hearing Notice

Applicant Josh Winston, one of the owners of the Seal Pub & Cafe, introduced a musician present to answer questions and the first employee of the Seal. He gave a description of the

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application, their goals and the type of people they are hoping to attract. He is open to any suggestions or compromise with the Board and his neighbors.

John Griffin, Musician spoke of his connection to Harwich and the type of place the Seal is and how hardworking the owners are. He also described the type of quiet music that he plays and that he is happy to contribute to Harwich.

Peter Antonellis of Harwich commented that he appreciates all the effort the Board, the Police Chief and the Town Planner have made to this point. He voiced his concerns about the outside music application. He is opposed to the application and suggested an alternative. He asked to make his email part of the record and he read it out loud.

Ed Kennedy of Harwich spoke on behalf of the Seal and shared his positive experiences there with other neighbors year round.

Jane Thompson of Harwich spoke of issues other than the application,

Susan Thomas, Minister of the First Congregational Church spoke in opposition to the application.

Robert Buchanan member of the First Congregational Church spoke of parking lot concerns.

Ann Becket of Harwich spoke in favor of the Seal and the application,

Susanna Brown, an employee at the Seal spoke in favor of the Seal and the application and shared positive experiences working there.

Lynn Carver of the First Congregational Church spoke of the parking lots that are owned by the Church and her concerns.

Janelle Brown of Harwich Center spoke in favor of the Seal and the application for the entertainment license.

James Machoke Head of Administration of the First Congregational Church spoke in favor of entertainment but also expressed concerns.

Pete Garrity of Harwich spoke of his closeness to the Seal and situations in the parking lot after hours.

Elizabeth Harder of Harwich spoke in favor of the Seal and the application.

Jane Thompson of Harwich again spoke of unrelated concerns.

Susan Thomas Reverend spoke of unrelated concerns.

Marietta Nielson of Harwich suggested a conditional license as a middle ground.

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Mr. Howell moved to close the public hearing, 2nd by Ms. Anderson. Vote 5:0 in favor by roll call. Motion carried unanimously.

Mr. MacAskill noted that the public hearing part of the meeting is closed and they'll move to questions and comments from the Board members.

Josh Winston of the Seal Pub thanked everyone who voiced an opinion and responded to some of the concerns. He submitted, for the record, over 200 signatures in favor of the acoustic musician and reiterated the goals of the Seal to enhance Harwich Center.

Mr. MacAskill addressed the issue of the broad licenses in Harwich Port and what the Board is doing to calm that situation. The Board is doing their job, they are focused on traffic, speeding, liquor license regulations and noise. He is not in favor of the 10:00 PM.

Mr. Winston responded and is willing to amend the application and offered suggestions in regards to end times.

Mr. MacAskill asked the musician if a set his 4 hours or spread out over 4 hours.

Mr. Griffin replied that it is a 3 hour set with two 15 minute breaks.

Mr. MacAskill spoke regarding the 15 weeks and 4 days a week which is 60 days barring weather and Mr. Griffin's availability.

Mr. Griffin clarified that he will not be playing the full 4 days a week.

Mr. MacAskill's concern was 4 days a week at 4 hours each day and he is not in favor of anything past 9:00PM. He also commented that it would be a violation of the liquor regulations if they see nips and beer cans in the parking lot. He added that it is Mr. Winston's responsibility to police his customer's parking. He noted that there are 21 seats and the Board cannot allow him to overflow into the parking lot. He emphasized that if the Board approves this license, all of this is the responsibility of Mr. Winston.

Mr. Howell noted the entertainment license and any approval derived from that is time specific and conditioned to the type of music which is acoustic. He would not agree to anything past 9:00PM but he would agree to only acoustic music and only for the days specified. He agreed that Mr. Winston has to be more active controlling the parking situation. The Board is not tolerating anything beyond what is specifically allowed. He noted that this is an adjunct to a liquor license and violations impact their liquor license.

Ms. Anderson commented on the positive aspects of the Seal and also about negative events that happened last summer. She is considering the options of allowing the license or waiting a year to see what transpires this summer.

Ms. Kavanagh asked for clarification on the parking and if it is part of Mr. Winston's lease.

Mr. Winston replied that the church owns the parking and they have an agreement with the church. The right of way driveway is owned by the Sea's landlord and the church owns the parking lot so it has stood for many years as a mutual agreement. They encourage people to park on the street and are aware and respectful of the Thrift Shop hours.

Ms. Kavanagh also noted that anything that goes on in the parking lot is the Seal's responsibility. She would want to restrict the time to 9:00 PM and be aware of the church's schedule, services in the evening etc. She is not in favor of entertainment on a Sunday. She encouraged an open dialogue between the Seal and the Church.

Mr. Ballantine agrees with the other Board members and noted that if the Seal adheres to the liquor license regulations, they'll be okay. He feels they all want to hear a commitment from Mr. Winston that all the rules will be adhered to and he is in favor of 6-9:00PM

Mr. Howell noted the application does not specify that it is seasonal. He stated that it would have to be specified seasonal and not on Sundays.

Town Administrator Powers noted that going from an annual to a seasonal could be less of a scope. He also noted that the application does not speak solely to guitar music. He suggested they may want to condition the license to indicate acoustic only by guitar.

Harwich Police Chief Guillemette recognized two sides to the issue. He commented that the best predictor of future behavior is past behavior. He is hesitant and would prefer to see a track record with no violations before they do anything else.

Mr. Winston clarified that they are applying for acoustic music and nothing beyond that.

Mr. Howell commented that there is no urgency to act tonight and he'd like to see this come back with an application including the specifics they've talked about.

Town Administrator Powers commented that it's better for everyone to have a complete and accurate application.

Mr. MacAskill feels it would be a waste of time to do this again. The motion should say that if council is ok with it they issue the permit and if not they re-notice and do this again. He would be comfortable with that because of how the notice read and because they're walking it so far back.

Mr. Ballantine prefers to move ahead and condition it as was discussed.

Ms. Kavanagh offered a draft motion which she read: New outdoor weekday entertainment license from 6PM-9PM on Thursday, Friday, Saturday only, for acoustic guitar music only on a seasonal basis from June 1st through Labor Day pending council's review.

Mr. Howell suggested they add accompanied by non-amplified singing. He also suggested it start Memorial Day weekend and go through Labor Day weekend.

Ms. Kavanagh moved to approve a new outdoor, weekday entertainment license from 6PM to 9PM on Thursday, Friday, and Saturday only, for acoustic only guitar music with non-amplified singing on a seasonal basis from Memorial Day weekend through Labor Day weekend pending review by legal counsel. The issuance of the license is to Beachlight, LLC d/b/a The Seal Pub & Cafe - 703 Main Street, 2nd by Mr. Ballantine. Vote 4:1 by roll call. Motion carried.

Mr. MacAskill asked Mr. Winston to please pay attention to the complaints that he heard.

Mr. Howell reinforced to Mr. Winston that this is a privilege, not something owed to him.

Mr. Winston commented that he appreciates the trust and will do the right thing moving forward.

Mr. MacAskill thanked the men and women of the DPW, private contractors and Eversource for the amazing job they did during the blizzard.

CONSENT AGENDA

- A. Vote to remove Barry Worth from the Energy and Climate Action Committee
- B. Vote to approve Board of Selectmen Meeting Minutes
 - 1. February 16, 2021
 - 2. October 4, 2021

Ms. Anderson moved to approve the Consent Agenda as presented, 2nd by Ms. Kavanagh. Ms. Anderson made one correction regarding a statement she did not make, it will be corrected. Vote 4:0 in favor by roll call. Motion carried unanimously.

NEW BUSINESS

- A. Discussion and possible vote to accept the Town Administrator's draft performance evaluation for the Fire Chief
- B. Discussion and possible vote to accept the Town Administrator's initial performance evaluation for the Police Chief

Town Administrator Powers described draft performance evaluations of the Fire Chief and Police Chief for the past year. They are in the packet. He also noted that under MGL 150E the Board of Selectmen are the employer and responsible for finalizing this process. He described the meaning of the grading.

Mr. MacAskill stated that the Board will make their comments and then send them to the Town Administrator and he will then forward a final written performance evaluation for the Board to vote. He explained that the Board doesn't interact with the Police and Fire Chiefs on a daily basis

which is why the Town Administrator's comments are important to the Board, he asked for Board members comments regarding Fire Chief LeBlanc.

Mr. Ballantine commented on the great job that the Chief has done and feels the Town Administrator's comments are spot on. He notes that "satisfactory" means he has done a really good job. Performance and salary are based on satisfactory.

s. Kavanagh commented that there is no disagreement at all and she thanks the Chief for all his hard work, in particular over the last couple of years that have been very difficult for the Fire Department.

Ms. Anderson commented that it's awkward to do someone's appraisal on TV. She requested to go on record as saying she thinks the Chief does a great job.

Mr. Howell would have advocated a bump up in personnel management and explained his reasoning.

Mr. MacAskill commented that it can be difficult to give appraisals in a public setting but not in this instance. He stated that with both departments we have the best on the Cape and noted instances. He thanked them both for their service. He stated that based on the comments and the Town Administrator's evaluations they can leave confident that they will get their step increase and they are graded from satisfactory to highly satisfactory performance evaluation with great comments from the Board.

Town Administrator Powers noted that he heard the Board grade from satisfaction to high satisfaction. They have the option of considering this process to have been the final. No motion is necessary, only an affirmation that the Chief is doing a satisfactory job.

Ms. Anderson suggested they change that to a highly satisfactory job.

Mr. Howell agreed.

Ms. Kavanagh is also fine with it.

Town Administrator Powers stated to Fire Chief LeBlanc that the Board had just completed the final annual evaluation.

Mr. MacAskill asked the Board to still send their comments so the Fire Chief can have it in his file. He continued on for Police Chief Guillemette.

Mr. Ballantine commented that his comments were the same, what the Chief brought to Harwich was something they'd been looking for some time, training and educating to bring people up up they can promote from within. He appreciates the changes the Chief has made and the great job he has done.

Ms. Kavanagh noted that her last statement combined them both together. She commented that the Chief has done a great job and she is grateful for it.

Ms. Anderson commented that she had been struck by how the Chief stays above the fray during noise and license conversations and she feels he has done an outstanding job.

Mr. Howell commented that he considers the Chief highly successful and he feels they are lucky to have him.

Mr. MacAskill echoed Mr. Ballantine's comments. He noted that it's a difficult time to be a Police Officer, he feels the Chief has done an amazing job of bringing people up and he knows there is a level of respect at the Department for the Chief.

Ms. Anderson asked to make this a highly satisfactory appraisal overall.

Mr. MacAskill asked that the Board send their comments to the Town Administrator. He affirmed that the Chief had a successful performance evaluation and he gets a step increase. He feels in both cases it's satisfactory to highly satisfactory.

Mr. Howell noted that there is no summary box checked.

Mr. MacAskill replied that it's their responsibility and it would have been inaccurate for the Town Administrator to summarize.

Mr. Howell asked the criterion to check off a summary evaluation of somebody.

Town Administrator Powers emphasized for Chief Guillemette that there was a second final evaluation that has gone exceedingly well and the form is something he has been using and he noted the elements, it does not have a summary. He can change it going forward.

Mr. MacAskill wanted to get away from the numerical system they had been using.

Town Administrator Powers commented that the Chiefs had to be reviewed by a peer and they were great about it, he appreciates their time virtually and in person. He enjoys working with them and that is a great thing for the town to hear and for him to say.

C. Discussion and possible vote to approve the Committee Appointments recommended by the Interview Committee:

1. Rosanne Shapira - Harwich Energy and Climate Action Committee - Term expires June 30, 2023

Ms. Anderson moved to approve the Committee Appointment as presented, 2nd by Mr. Howell. Vote 5:0 in favor by roll call. Motion carried unanimously.

D. Discussion and possible vote to amend the Harwich Energy & Climate Action Committee charge to five (5) members and two (2) alternate members.

Mr. Anderson moved to amend the Harwich Energy & Climate Action Committee as presented, 2nd by Mr. Howell.

Mr. Howell commented that they have had problems with committees having quorum problems, he doesn't think it's a good idea to hold them back from meeting.

Mr. Ballantine wants to ensure there is a diversity of opinion.

Mr. MacAskill commented that when they get a wait list they can bring it back and vote it up again.

Ms. Kavanagh feels they're doing what they need to for this committee.

Vote 5:0 in favor by roll call. Motion carried unanimously.

F. Discussion and possible vote on Fish Weir application renewals

1. Nantucket Sound Fish Weirs, Inc.
2. Chatham Fish Weirs Enterprises

Ms. Anderson moved to approve the Fish Weir applications as presented, 2nd by Mr. Howell.

Ms. Kavanagh commented that she didn't see anything negative and assumed there is nothing.

John Rendon Harbormaster commented that it is a standard 5 year renewal, same coordinates and locations on both. He has no issues with them.

Vote 5:0 in favor by roll call. Motion carried unanimously

E. Board discussion - Committee charges, agenda prep, and Open Meeting Law requirements

Mr. MacAskill noted that this is on the agenda to start discussion and not make decisions tonight.

G. Discussion and possible vote to approve a new Class IV Auto Repair License -VTech Auto Center - 805 Route 28

Ms. Anderson moved to approve the new Class IV Auto Repair License as presented, 2nd by Mr. Howell. Vote 5:0 in favor by roll call. Motion carried unanimously.

H. Discussion with Jon Idman, Town Planner on mixed use housing.

Ms. Kavanagh mentioned an apartment over a commercial use and the Board has looked at other commercial properties for potential to create apartments.

Mr. Idman noted that appropriate development is a way to keep a Historic District viable. He spoke of alternatives to single family housing and why we don't have more. He noted environmental and zoning. He commented that the Board should look at the sewer regulations and noted what other towns are doing to encourage certain types of uses in parts of town. He also suggested it is time to look at the zoning Bylaws as a whole. He described some inconsistencies and offered suggestions. He discussed multifamily on a lot vs in a building. He commented that the way zoning is headed is using a variety of adaptive properties. He suggested that looking at sewer regulations to see what could be incentivized and working on the zoning to be sure it's saying what we want it to as a community and taking advantage of excess capacity or existing buildings or developed properties located in commercial zones would be helpful.

Ms. Kavanagh commented that they should be looking at commercial property and zoning to address other areas of town.

Mr. Ballantine commented that the more they bring this to the public and encourage discussions, the better off they will be.

Mr. Howell noted that the Trust is discussing what it would look like in terms of building new vs rehabbing and retrofitting.

I. Discussion with the Town Planner about town and state zoning relating to housing.

Mr. Idman described spot zoning and the State Zoning Act. He also discussed 40B, what can be done within 40B and that it is not spot zoning. Affordable housing is considered a public purpose.

Mr. MacAskill commented that he feels the 40B laws are antiquated and not meant for the conditions now on Cape Cod. He noted that they have been approached by a Harwich resident who was to build Harwich housing and it is his hope that they build something for Harwich people. In order to do that they have to do something about zoning. He commented that they can solve their own housing crisis if they get to solve the housing crisis instead of being tasked with 10% in a law written in 1969. He stated that if they don't start doing things on a help Harwich level, and count on 40B, they'll get nowhere. He asked what they can do now to control their own destiny and create some affordable housing.

Mr. Howell commented that some the problem is where the money comes from and he noted examples. He suggested that outside CPC they create a bank account so they can condition it to who they want in it. They need a plan that give them money and flexibility.

Mr. Anderson commented that the town needs density and agrees it needs to be scattered around town.

Mr. MacAskill clarified that he is for density as long and it's density for Harwich.

Ms. Kavanagh commented that any way they can come up with ideas along with density is helpful. She noted that time is of the essence, Harwich is in an emergency and they need to move quickly.

Mr. Ballantine commented that they shouldn't pay attention to the state's 40B process, it's not getting them where they want to be. He does like the state's emphasis on smart growth.

Mr. Idman commented on 40B, it's a housing production statute. He suggested they create a housing production plan and get those units developed which is a way to establish a safe harbor to 40B. He offered suggestions on how to accomplish that. He also suggested smaller lots with smaller houses and pick them up with sewerage, the best way to handle density is with an appropriate infrastructure.

Mr. MacAskill would like to bring this back in the near future and he would like the Board's feedback on what they want to talk about next. He feels action soon is needed.

Mr. Howell agrees that 40B is a regional thing but the town doesn't get credit regionally and gave an example.

Town Administrator Powers noted that the Town of Harwich is actively seeking comments and actively working on revising the CWMP at the same time as talking about the Housing Production Plan of 6 or 7 years ago. Those documents will be user manuals. Guiding principles. Priorities will be in those and then executed over time.

J. Town Administrator to provide an update on Short Term Rentals

Town Administrator Powers noted that there are materials in the packet. He emphasized that in October 2021 through Town Meeting the Town approved changing the hotel-motel short term rental tax from 4 to 6%. Mr. Kelleher will speak to the Short Term Rental as the Commonwealth considers it and what the town has as a Bylaw.

Mark Kelleher of Harwich offered a definition of a short term rental in regards to less than or more than 30 days and the tax obligations of each. He also noted statistics for Harwich short term rentals. He offered a suggestion of using company that tracks short term rentals and notifies owners that they need to register in Harwich. He explained other services they provide. He estimates that collecting registration fees would bring \$25,000.00 to the town. Other benefits were noted also. Some services can be utilized the first year and then fewer services after it's established.

Mr. MacAskill suggested that Mr. Kelleher send the information and his research to the Administrator through the office. They will outline the cost and come back for a longer conversation.

Town Administrator Powers is aware of this company, his concern is the existing general bylaw that speaks to rental dwellings which does not come to this level. If the Board is interested they

would have to take an article to delete Chapter 230 rental dwellings under the general bylaws. Given the process, it would not impact this summer.

E. Board Discussion - Committee charges, agenda prep and Open Meeting requirements.

Mr. MacAskill would like to task the Town Administrator to set up Open meeting Law training for committees or anyone who wants to participate. He requested 2 or 3 classes to accommodate more people. KP Law offers this service. The Board has the Committee Handbook which has been highlighted with notes added. There are antiquated committees and some that no longer exist. The Board has to update charges or tell the committees they have to work within their charge.

Mr. Howell noted that there are named committees in the Charter and some outside of the Charter and it would be helpful to know which is which.

Mr. MacAskill asked the Board to start digesting this and send comments to him or staff to begin working on it.

K. Discussion and possible vote to send a letter opposing Holtec International proposal for Pilgrim Nuclear Powers Station regarding Cape Cod Bay

Mr. Howell moved to sign the letter and send it, 2nd by Ms. Anderson.

Mr. Ballantine commented that he is going to vote against it because it doesn't make sense. He explained his reasons and his concerns.

Mr. MacAskill commented that they have been doing this for years and they're permitted to do it. He doesn't think they should be allowed to dump anything into Cape Cod Bay.

Mr. Howell explained his reasons and even though it may be a little bit, he doesn't want to add to that.

Vote 4:1 by roll call. Motion carried.

TOWN ADMINISTRATOR'S REPORT

Town Administrator Powers updated on procurements and went through a detailed list. There was no action on Bells Neck Road, he will bring it back with suggestions.

SELECTMEN'S REPORT

Mr. Howell expressed gratitude to the DPW, safety officials and the Town Administrator for their work over the past stormy weekend. He also thanks Eversource for its efforts.

Ms. Kavanagh echoed Mr. Howell's comments.

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Mr. Howell moved to adjourn, 2nd by Ms. Anderson. Vote 5:0 in favor by roll call. Motion carried unanimously.

Respectfully submitted,

Judith R. Moldstad
Recording Secretary

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