

RELEASED

APPROVED

**MINUTES
SELECTMEN'S MEETING
REMOTE PARTICIPATION ONLY
Friday, June 5, 2020
1:00 P.M.**

SELECTMEN PARTICIPATING: Larry Ballantine, Stephen Ford, Donald Howell, Michael MacAskill, Edward McManus.

ALSO PARTICIPATING: Interim Town Administrator Joseph Powers and Health Director Meggan Eldredge, Cyndi Williams, Director, Harwich Chamber of Commerce.

CALL TO ORDER

Mr. Ballantine opened the special Board of Selectmen meeting at 1:00 pm, and called to order the Board of Selectmen. He explained that this is a special meeting to discuss the approval process utilized by the Board of Selectmen in response to requests for expansion of outdoor table service.

Mr. Powers had a couple of announcements, and discussed the difficult time our nation is having right now in regards to race and social justice. There are a number of things happening around the nation and that have occurred in the Commonwealth. There has been an effort by some of our best and brightest youth, to engage in a civic dialogue and discussion with a rally. It was advertised on social media, and it has taken on a life of its own, and there was concern to possibly cancel. There are several things he would like to enlighten to the Board, and through them to the public, in general.

Throughout the week, he had been working with Chief Guillemette, and they have been working with individuals looking to effect social change, to march and be heard. At no point in time, has the Town of Harwich said no to anything. He is very much heartened by the collaborative spirit and dialogue that has happened throughout this week. He would say personally, that this is what needs to continue, more often, to try and come to some general consensus on our community and way of life.

The map on the screen is the recommendation for anyone that is looking to come to the Town of Harwich, on Saturday, June 6th, for the purposes of rallying. Whether they are looking to rally for social justice, or related to the unconscionable death of Mr. Floyd, in support of Black Lives Matter. The Town of Harwich and the Public Safety Department has worked collaboratively to establish a rally through the center of our town. This is the heart of our town and the seat of government of our town. This will also utilize what is a very significant and appropriate place for public gatherings, being Brooks Park and the gazebo. There is a suggested route, and the Town of Harwich will continue to partner with anyone who has been moved by and desires to be heard on Saturday.

Mr. Ballantine said that the march does make him nervous, as had been seen in other communities, where it started off peaceful and had gone south. He is hopeful. Though he has received a number of calls from folks being nervous, and he has even heard rumors of bricks being stockpiled at various places. He encourages everyone to keep this orderly and peaceful and to work with public safety. He is also hoping they will use the guidance for the routes. It is possible that it could take place on this route and also on Route 28, which would be tough for public safety. He has concerns although they do not have a choice, nor do they want to stop people from having a peaceful protest and making their views known. Just hoping people will be mindful of their neighbors and respectful of the town and the police.

Mr. Ford said that he has faith. This is a good thing and he has a lot of respect for the kids that began this process. He would just like to say, that they should make sure to wear a mask and make sure they distance. This is a cause that is well worth turning out for, but please think about your personal health and that of your parents, brothers, sisters and grandparents. I don't see a situation where we will have violent interlude. Mr. Powers has said that the police have been very involved. People should remember their own health. He is very proud of these kids.

Mr. McManus agreed with Mr. Ford and said to maintain a healthy distance. It will be a silent march, no chanting and in the park itself, they will be using the gazebo sound system, so people will not need to be shouting out. Doing all the things they can to keep it safe.

Mr. Ballantine said he wanted to add one more thing to set the record straight. He received at least one phone call that said that the Board of Selectmen had authorized this march. The Board of Selectmen do not authorize marches. Some members have

said that they support it, but that is completely incorrect, it is not the role of the Board of Selectmen or their authority.

Mr. Powers said that is correct, the Town has done nothing to thwart efforts nor to engage efforts. They were merely there to facilitate what they hope will be a very peaceful and impactful event for all involved.

In line with that, and indicative of a lot of the emails that he dealt with over the week, Mr. Powers explained that there have been many individuals that have complained about, what he will call, “banners”. In the sense of his understanding of the United States code, as it relates to the Flag of the United States of America, the center field at the Centeio-Baldwin Field prominently displays, and soaring above all others, is our flag of the United States of America. On either the right field, or left field, there are what he referred to as banners, because they are not under the code of the flags of the United States of America. They are flags that demonstrate a blue line and demonstrate a red line. They have been in place there for several years.

Monomoy little league has exclusive use of the lands and the property there; as granted by the Town, and continue to have those flags present. He has been asked to remove them and it is his position that the use of that property by Monomoy Little League is appropriate. If the flag of the United States was not prominent or preeminent, I would have an issue with that. But at this time, I will not be going to be directing staff, or anyone, to take the steps to removing those two flags. If the Board would want him to reconsider, or have a further discussion, but he was waiting for this opportunity to bring this to the Board, and communicate to the general public.

He knows there are people that see symbolism in those banners, he does not. But more importantly they have been there for years. They were recently replaced only because of the condition they were in, and they were restored prior to Peace Officer Memorial Day. Which is what he understands, many of the proponents of those banners, that is their use and their purpose.

Staff is very aware of the high feelings and everyone is on edge. The Town of Harwich and its residents may have disagreements about symbolism and statements, but the sum total of those two events or actions this week demonstrate that the Town of Harwich, as a government, takes no position on either side. They continue to support the rights of their citizens to express themselves, as is their rights under the U.S. Constitution.

Mr. Ballantine said that there is no disagreement.

Mr. MacAskill asked for an idea of what the timeframe is for the rally. Mr. McManus said it begins at 2:00 pm, and assuming a speaking program for about 20 minutes, and then however long it takes to walk around the route. Then back to the park for dispersal.

NEW BUSINESS

- A. Discussion and possible vote – Adoption of approval process to be utilized by the Board of Selectmen in response to requests for expansion of outdoor table service as allowed under COVID-19 Order No. 35 promulgated by Governor Baker on June 1, 2020

Mr. Powers said that what they have in their packet, is from their discussion Monday evening. It is a memorandum, from him to the Board.

He said that Ms. Eldredge and he have been very busy reacting to Governor Baker's order number 35, relative to Phase II, which they anticipate can begin as early as June 8th. The main component of that is the outdoor table service for food and beverage, including alcohol service.

Also, in the packet is Governor Baker's order number 35 and he will review that, just for a moment. What they are really dealing with is section four, which is the "Preparations and Accommodation for Outdoor Restaurant Dining Service". There is also the definition for "Outdoor table service", and that has been incorporated in all of their documents. Also included in the packet is the exceedingly, well developed, and informative PowerPoint presentation that was put together by Ms. Eldredge.

Mr. Powers said that he, along with Ms. Eldredge, Ms. Williams and Ms. Ballantine, participated in a call on Wednesday June 3rd. Ms. Eldredge had already taken the initiative of setting up that call, so it was well timed and all were very appreciative. They met with more than 30 restaurants, out of roughly the 65 establishments in Harwich. They went over the PowerPoint presentation, which dealt predominantly with table service, regardless of alcohol. So, in addition, they have the ABCC guidance and directives. That will need to take place on the request for extension of service of table service

and liquor service. Then the “Guidelines for Extension of Premises to Patio and Outdoor Areas” is a document that dates back to 2015, and is not unique to this endeavor. However, every element on that document is required of the Town, to insist upon to the establishment.

He has tried to be very mindful of this Board, and their direction to him and staff, to do anything and everything possible to expedite the approval process. This will support the businesses, because of how drastically they have been impacted. What he is suggesting, as far as bureaucracy and red tape goes, is that there is not even a form for them to fill out. There is a checklist that staff will fill out on their behalf. So, he offers that as a sincere gesture, of staff doing everything they can to expedite it.

He wants to take a moment to review the “Request for Expansion of Outdoor Table Service”. Those three components, because they will impact on liquor service. Any establishment wishing to implement outdoor seating, outside of the restaurant building envelope, which goes back to the definition. So, this would be any establishment that may have outdoor seating, but would want to go beyond what they have already been established, or if they don’t have outdoor seating of any sort.

What we are asking for is a to-scale drawing of the property, showing the location of tables, chairs and any barriers proposed. What we cannot accept is a rudimentary drawing on graph paper or pencil drawing. They do need to avail themselves of some type of to-scale drawing. That is because there is still ABCC oversight, and the State does expect us to have a to-scale drawings. It may be a sticking point, but one that can be ameliorated in very short order. Also, they will need to indicate the number of seats they are proposing; including, any carry-out service waiting areas, and a maximum occupancy number. They will also need proof that they have the permission of the property owner, if they are not the owner, to expand beyond the building envelope. Again, if there was one area that they would need to insist upon; he would say it is the to-scale drawing.

Any establishment that was not able to participate in the meeting, the PowerPoint, as well as the video are available on the Town website. So, they would ask anyone that could not participate to view that first, and then certainly reach out to Ms. Eldredge, or himself, as they have been doing.

This morning The Board of Health voted unanimously, to adopt the work place safety standards promulgated by the Commonwealth. The Board of Health unanimously adopted those safety standards for restaurants and now regulations of the Town of Harwich. That was a necessary step.

Also, to mention that the calls that Ms. Eldredge, and/or he, has participated in this week, they do understand that indoor table service is expected to begin within this month, and within Phase II, which could be as soon as 2 weeks. This effort is not thwarted or negated by indoor service, it would just be an establishment able to do indoor and outdoor service if they choose. He does not want anyone to think they should hold off on outdoor, because indoor will resume. Because indoor and outdoor will give them the greatest ability to impact upon their revenue and with their customers.

Mr. Powers had two other points to make. Since they do not know the approval process yet, on the agenda that was posted for June 8th, they have 15 establishments that notified them, before the agenda deadline. So, those 15 establishments, should the Board be the approvers of that, they could be in position to be approved and go into effect for June 9th. However, an establishment that came across them today, that they do not know if they can add them legally. This is not an unanticipated event, and they don't know if they will have all of the paperwork. And lastly, there was a question regarding an application, or request, from the operator of the Dockside establishment for a canopy. That came in through staff in January, and was withdrawn in early March, by the operator. There is no expectation of a canopy around that establishment, known as the Dockside Snack Shack.

In the memo on page two; he offers a recommendation and also a qualification. He is recommending that they name him, on their behalf, to approve. If they do that, they could begin the process immediately after this meeting. There are at least two establishments, possibly four, that if they are able to move forward right away, and Governor Baker says Phase II is in effect on Monday, then those establishments could be in operation for outdoor service as early as Monday. However, if the Board were looking to do it, it would be no earlier than Tuesday. He wanted to put the options of them, whether direction himself, the Board, or any other staff member. Though, he does recommend they redirect it to him, because he can work with staff and begin working immediately.

Mr. Ballantine said that he wanted to say that, Ms. Eldredge, along with Mr. Powers, did an excellent job in presenting this to the restaurants and clarifying the Governor's orders. Concerning the to-scale drawing, that it does not need to be an engineering drawing. He also mentioned that Ms. Williams had also offered to help business with the drawings.

Mr. Howell said he was just looking for clarification on the form, if they are interested in looking for any road closures. He would like to know how that would work.

Mr. Powers said that it was included, that if any establishment was looking to rely upon Town or State roadways, to include that in their narrative. He does have a significant update on that. They are looking to the establishments to say whether or not they need that. Any talk of this sensitive nature, brings many opinions as to whether or not one-way closure of any kind is good, bad, or indifferent. It might help someone, but might hurt someone else.

Long and short of that, we will be looking for them to tell us what they need. In the meantime, the Deputy Chief of Staff to the Secretary of Transportation reached out to him through Representative Peak immediately on Wednesday and has since redirected him to Mr. Bill Traverse, who is the District 5 Engineer. He has a number of questions that he asked, but they are very much in a mode of working with them. We are working with them, and this will be more workable if you remand this to staff, but we are reaching to them to ask what they need. I don't want to use examples, because that's unfair to them, but any establishment on Route 28, if they need to use the sidewalk, we may be able to impact on the roadway.

Mr. Howell said the reason he brought that up, is to get it out there. That third box is not a deal killer. That is an ongoing discussion, if they want to avail themselves. The other thing is that the indoor opening, is not going to be at full capacity. That is known, so to the effect that they can get both the indoor and some sort outdoor seating to try to help these folks out, that would be terrific. They should know, don't not fill out the form because of the third box, because there is a roadway involved. There is a process that they can work through.

Mr. Powers added to that, what they will see in the approval process, he has included what they will see as an appeal process. If staff is doing it, instead of the Board, he wanted to build that in for an immediate appeal process.

Mr. Ballantine asked Mr. Powers about process lines. If there is a restaurant on Route 28, would he submit Phase I of outdoor seating, without road closure, and then Phase II, to at least get started. Mr. Powers said yes, absolutely, this is not meant to be an all or nothing. He is drawing upon the Board to be unanimous and consistent, in saying, whatever we can do to support these businesses. The other thing he wanted to bring to light, as he mentioned there are 15 establishments that have notified them in time for the meeting notice on Monday. We do not know yet how many have met the requirements for the agenda, for the Boards consideration. There is an argument and an element there for staff to expedite. If they are to go with his recommendation, he is still utilizing their agenda materials Monday to include in the packet any and all materials of any establishment that would have been approved by staff. So, the Board will still get all of the documentation that is required. He does not want them to think that Monday night would not become a useless event, if those 15 establishments are already taken care of. They will leverage that to update the Board and the general public.

Mr. McManus asked a question on the guidelines which were presented in the document; “Guidelines for Extension of Premises to Patio and Outdoor Areas”. His question is on the last item stating; “preferred are outdoor areas where alcohol is served to patrons who are seated at the tables and where food is also available” He would think if food is not available, that would be a bar, and bars are not allowed till Phase IV.

Mr. Ballantine asked if Mr. Powers could respond to that, because that question has come up. Mr. Powers said again, that this document has been in use for years, and when it was written in 2015, that was the mindset. The guidance and directives, they have received from the ABCC is that because it is a “preferred” item, they will defer to the Local Licensing Authority. So, it is possible that someone could be outside and only get alcohol service and not food service. However, if there is any pure bar that is serving alcohol only, that would have to be vetted through counsel. It is their understanding, and they have answered this question to the establishments, that if a person wants to order only alcohol, they can. Ms. Eldredge added that they do have to be seated though. There is no standing around allowed and there is no bar service allowed.

Mr. Howell asked if Harwich has any bar in town that does not serve food. There is not.

Mr. MacAskill added in regards to road closure on Route 28, that someone should reach out to the Town of Chatham to see what the impact might be for the ambulance, as that is the route that they take. He would imagine that would be significant. He has received some complaints that stated closing Route 28 would be a big mistake. Mr. MacAskill then asked about insurance requirements and assuming the Town of Harwich will take on some liability by permitting close to a street or on a sidewalk. Has this been asked to the insurance company if there is anything additional that we have to do, or would they require applicants to get a letter from their insurance company that they are insured for the additional space. Mr. Powers said that they are working with counsel on questions like that.

Mr. MacAskill asked if there is a time, if most establishments stop serving food at 9:00 pm or 10:00 pm. Will there be a time, because people are allowed to sit down and have drinks only, are we the Board thinking this will be allowed to the 12:00 am curfew of the outdoor entertainment? Will we leave it open, or put a time on it.

Mr. Ballantine said that is a great question. He is not comfortable putting indoor timing, outdoors. We will get complaints about this, no matter what we do. We have outdoor entertainment guidelines on some places, so perhaps we should stick with that uniformly. Mr. Powers said that they have not discussed yet, outdoor entertainment in these expanded areas. This is because they wanted to get this process moving. That will be a bog point but they are aware of that. As far as hours of operation for alcohol service, the notice on the agenda for Monday, is complete enough that we can have that discussion more formally, if the Board operating as Local Licensing Authority wanted to put any structure around that.

Mr. MacAskill said that he thinks that for public notice, if the applicants added to their application, or the checklist, what their hours of operation are proposed. He will reiterate that he wants to do everything to help the local businesses. However, they also have to consider some of the neighbors, and make sure that they are advertising things correctly. There should be a time slot on it and how do we intend to monitor it and make sure they are complying, and what would be the punishment. The Board is very pro-

business, but this is for the public that are asking the questions and want to have it more clearly defined.

Mr. Powers said that this is an excellent question. The short answer is that there is nothing in any of this where the Local Licensing Authority surrenders any of its rights, rules and responsibilities. That is why the to-scale plan is critical, so that they can understand what the vision is for the premises. That is why both parties need to be very clear on that. If they show that they will be using the four spaces in front of their establishment, and someone is drinking on the other side, that is no different than taking a drink outside, and it would be in violation and be brought to a hearing. As far as monitoring, it will continue as they have always done it. Even though they are expediting an approval process; they are doing nothing to wave any of the rights or regulations of the Town, and they can incorporate that language.

Mr. Ballantine asked about something that came up this morning at the Board of Health meeting. If Ms. Eldredge can weigh in on the certification and policies and walk through that process.

Ms. Eldredge said that all businesses regardless what type of business they are, so restaurants, retail spaces, even municipal governments, are required to meet mandatory workplace safety standards. Those standards are for social distancing and hand hygiene, staffing, training and cleaning and disinfecting. A part of those standards requires all owners of businesses to self-certify that they are meeting all of those standards and they're supposed to post something or have something available upon request, saying that they have met all those standards.

They're similar to the ones you're seeing on the screen, these are specific to restaurants, but they're very similar for general business, as far as training and what happens if someone is sick and face coverings are required, and cleaning and disinfecting. So, there is a self-certification that the State is requiring for all businesses.

Mr. Ballantine said that he thinks this is a two phase approach and hopefully as Mr. MacAskill added, we do have a way to enforce it and keep people in line.

Mr. McManus had a question on the hours of operation, saying that a number of places that are open until midnight or later, but close their kitchen at 9pm, do we want these places to basically function like a bar, where food is not available.

Mr. Ford said that they do need to be concerned about that and create a real issue for the neighbors. There is a late night crowd, and we do not want to discourage the business, but we do need to worry about folks that would normally inside talking loud and having fun, will now be outside.

Mr. Ballantine does not want to take that up right now, but notes their points. Mr. Howell said walking into the room, the endeavor was really defining the premises. He hopes that everybody that has a pouring license understands that we are redefining what the service area is. The liability is still theirs. It is the premises that they are pouring on. Mr. Ford added that they need to be cognizant of that and establishments need to be cognizant of the noise.

Mr. Howell added that ultimately everyone needs to understand that they need to give a little. Even the residents around establishments. Everyone needs to give everyone else a break here, so that we can move forward from a very difficult circumstance.

Mr. Powers said that they had about 30 establishments, out of the 60 or so, on the call. As he had mentioned 16 of them indicated a desire to expand their outdoor table service. He, and possibly Ms. Eldredge as well, have been reaching out to some of the businesses that did not participate and just inquired if they were aware of it. Their response has been that they would prefer to remain takeout until indoor was allowed, because they just don't have the staff. They are going to see all sort of variations on this.

Mr. MacAskill said he appreciates that. He has talked to many businesses that have said that they will just continue to do what they are doing, because it doesn't make any sense to anything different. He also added that he is not trying to bog the Board down about the time. Though he would just like to clarify because he got an email this week. Is the shut down on serving alcohol, 12:00 am or is it 1:00 am? He knows our Police Chief expressed wanting it to be 12:00 am, and we had this conversation but did we ever make an actual decision on it? Can we see if there was a vote taken by the Board?

Mr. MacAskill also added that as far as the table service for alcohol goes, we do need to do as much as we can for these businesses and he thinks the applications will be a one by one and a one on one. They will have to look at different areas. The residents in Harwich Port will get a break, because there will not be any outdoor entertainment and the bars will not be as busy, so there will be less noise, regardless of what time the tables get shut down. In Harwich Center, there has never really been any outdoor bar activity, same with South Harwich. So, he thinks they should see how it goes and if needed they can have another meeting and change it.

The last question he had was related to Mr. Powers's recommendation. He does not want to make more work for himself and happy to have Mr. Powers do it. However, he would only ask that as they are starting to open the town, and opening Town Hall and starting to talk to unions and talking to employees and creating 1/12 budgets, does Mr. Powers have the time for this? Mr. Powers said that today, through next week yes, simply because of the procedures they have put in place for it. Whether it is himself or staff, they will receive it anyway and it will be redirected to key staff members to say this is the proposal, weigh in and he will render a decision and then advise the Board, or weigh in and he will make a recommendation to the Board for a decision. Either way, it will impact upon staff, the Board and himself. The hope is with the process right now, that within the next week to have the greatest impact as fast as they can. Mr. MacAskill will support that, to have Mr. Powers seeing it before them. This with the added caveat that many business owners are stressed out. They have been closed, struggling with take-out and they really need to open to stay in business. He would just add, if there is a difference in opinion, to help restaurants and all business, that if there is an appeal that Mr. Powers would go back to the Board; or grant them something and then say to appeal. Mr. Powers said that he would be willing based on that, that if the Board said, that any objection by staff, notwithstanding, that the establishment would be approved and it would go back to the Board, so that the Board is aware of the issue. They could either do the immediate appeal, which would take at least 48-hours for a Board meeting, or some other mechanism. Either way the intent is the same.

Mr. MacAskill said that the last thing that is important to him, is that as these plans are submitted, and as they are approved, if they can go into a drop box, either weekly or bi-weekly. They are often asked questions and will have to

ask questions, so it would be important to him, to be able to see the plans so that they can answer questions, if residents ask.

Mr. McManus commented that typically with seasonal licenses that do not have the paperwork in, but to allow them to be able to open in time for Memorial day, they often had emergency meetings to allow them to be able to open.

Mr. Powers said that if the Board is willing to go with his recommendation, they already have it lined up in Administration, with 30 plus folders, so as they get documentation, the Board will have as many documents related to those establishments, as were accepted this evening, for Monday and going forward. This will be the standard operating procedure.

Mr. Ballantine said, for what it is worth, during the call they had with the restaurants, they reminded restaurant owners that they need to work with them. Not just legally, but in the spirit of the law. He also commented about being nervous about the noise and they will keep track of that. His guess is most of them will be careful, because they want to stay open.

Mr. MacAskill moved that they approve the approval process, and the Town Administrator's recommendation, for the applications to go through the Town Administrator. Seconded by Mr. Howell.

Mr. Ballantine asked if anyone wanted to participate in public input. Lieutenant Tyldesley said that there was no one on the call.

Mr. MacAskill added a closing comment, that he has spoken to other towns, and he feels that the Town of Harwich is very far ahead. This Board is supporting their businesses and he hopes that the businesses are appreciating that. The streamlined efforts will allow for people to open quickly. He is thankful that they can vote on it and hopes the businesses thrive.

Mr. Howell said that he wanted to expand on what Mr. MacAskill said earlier. There has been a lot of stuff, starting with a Tornado, the budget that started upside down, the pandemic and on the wing, coming up with regulations. He appreciates what Mr. Powers has been able to pull off. They are reinventing things on the fly.

Ms. Williams just wanted to mirror what they have just been saying, the business are very thankful for what the town has been doing. It is appreciated.

All in favor, motion carried by unanimous vote.

Mr. Powers emphasized that by the Board taking this action, it is conceivable that they could have establishments in the Town of Harwich, as early as Monday, June 8th, in accordance with the Governor's directive, open for outdoor table service. He thinks that is a remarkable testament to the direction of the Board and staff working as one to get that done. He thinks they should all be very proud of what they have done today.

SELECTMEN'S REPORT

Mr. MacAskill asked if they can get an update on when the Cultural Center will be able to open.

OPEN PUBLIC FORUM

A. See dial in instructions above

Mr. Ballantine opened the Public Forum. The public was invited to call in and participate in the meeting to offer comments and/or questions. Mr. Ballantine asked Lieutenant Scott Tyldesly if anyone had called in. Lieutenant Tyldesly responded that there were no calls.

ADJOURNMENT

Mr. MacAskill moved that they adjourn at 1:58 pm. Seconded by Mr. Howell.

Respectfully submitted,

Lisa Schwab
Administrative Assistant