

**MINUTES
SELECTMEN'S MEETING
GRIFFIN ROOM, TOWN HALL
MONDAY, MARCH 26, 2018
6:30 P.M.**

APPROVED

SELECTMEN PRESENT: Howell, Kavanagh, MacAskill

OTHERS PRESENT: Town Administrator Christopher Clark, Atty. John Giorgio, Carolyn Carey, Steven Scannell, and others.

Chairman MacAskill reported that the Board had just come out of Executive Session where they discussed collective bargaining with respect to the Finance Director and they took a vote to accept her performance evaluation and give her a merit increase based on performance.

WEEKLY BRIEFING

Ms. Carey reported on upcoming events at the Community Center and Cultural Center.

PUBLIC COMMENTS/ANNOUNCEMENTS

No one appeared before the Board.

CONSENT AGENDA

- A. Approve Minutes
 - 1. March 5, 2018 – Regular Session
 - 2. March 12, 2018 – Regular Session
- B. Accept the resignation of Rob Mador as a member of the Conservation Commission effective March 15, 2018
- C. Approve 2018 Seasonal Liquor License Renewals as recommended
- D. Approve 2018 Seasonal General License Renewals as recommended
- E. Approve application for Road Race by Cape Cod Lighthouse Charter School
- F. Approve the recommendation of the Town Administrator to permit Eversource Energy to install conduit and cable under 27 Rear Sea Street, Harwich Port
- G. Approve the 2018 Long Pond Bass Tournaments

Mr. Kavanagh moved approval of the Consent Agenda. Mr. Howell seconded the motion but raised his objection to the creep in size of restaurants by enclosing them which has been going on at several of the restaurants. The motion carried by a unanimous vote.

PUBLIC HEARINGS/PRESENTATIONS (Not earlier than 6:30 P.M.)

- A. Participation in pursuing opioid litigation – John Giorgio, KP Law

Mr. Giorgio explained that the Massachusetts Opioid Litigation Attorneys group (MOLA) has approached K-PLaw about coordinating with their efforts to bring lawsuits on behalf of cities and towns against the opioid manufacturers and K-PLaw has agreed to partner with them. He stated that the purpose of the lawsuit would be to establish liability and collect damages incurred by cities and

towns in fighting the opioid epidemic. He noted that the litigation is structured as a contingent fee case and there would be no cost to the Town of any kind and if there is a settlement or judgement the MOLA group would take a contingent fee of 25% for their services. He explained that the litigations would be in two stages with the first stage being establishing litigation and the second would be establishing damages. He said they've looked at this carefully and there are a lot of costs the Town is incurring as a result of the opioid epidemic. He noted that one of the things he thinks the towns are probably going to want to do is to figure out a way to create a dedicated fund for any recovery of funds to be used for providing grants for social service agencies and assisting with the budgetary pressures on the Police and Fire Departments. Mr. Giorgio took questions from the Board on the specifics of the litigation including how to identify the related costs. Mr. Howell questioned why we are doing this rather than the state and Mr. Giorgio responded that it has yet to be seen what the state is going to do but the Town has incurred very significant identifiable real costs associated to the opioid epidemic and will continue to incur these costs so it is appropriate for the Town to sue directly. Mr. Giorgio noted that all the towns that have been presented with this have decided to sign on and at some point the parties may very well come to a settlement agreement. Ms. Kavanagh stated that at least we will be getting something out of this if the state doesn't do anything. Chairman MacAskill questioned why we aren't suing the doctors and if the negligence is on them. Mr. Giorgio stated that in litigation you have to address the source and you could argue that it's the doctors but they aren't the deepest pockets. Chairman MacAskill noted that there is pending litigation to buy back the pills and he would like to wait and see what the Attorney General is thinking. Mr. Giorgio stated that in the end it was the pills that created the financial liability to the Town and the Town should be reimbursed for the actual costs that resulted from the manufacture of the pills. The Board questioned how to determine the costs and Mr. Giorgio stated that this is the job of the attorney. Ms. Kavanagh pointed out that the doctors are following the dosage instructions provided by the manufacturer who is responsible for educating the medical field on how to prescribe. Chairman MacAskill said he would like to wait until there is a full Board to vote on this.

NEW BUSINESS

A. Request for waiver by private party for Board of Appeals filing fee of \$315.00

Mr. Clark explained that a resident and abutter of Fontaine Medical Center approached the Town about the lights being too bright there and asked that the Town intervene. He noted that a study had been done at the request of the Planning Board and it was determined that the lumens were satisfactory. He added that the Building Commissioner looked at it as well and advised that the lumen study met the requirements of the permit that was issued and advised that the resident should file with the Board of Appeals. Mr. Clark further stated that the resident has now asked for the Town to waive the \$315 filing fee to the Board of Appeals and that waivers are typically issued to charities and things of that nature. He stated that in this case it is for an aggrieved abutter and this would set a precedent. Mr. Clark stressed that we have done our due diligence. Chairman MacAskill said that ZBA put the lighting plan together and the abutter thinks the lighting is outside of the ZBA decision. Ms. Kavanagh said the engineer for Fontaine has concurred that the plan is done as it was supposed to be. Mr. Clark said the resident was advised to apply in a timely fashion after the permit was issued and she missed the window. Mr. Giorgio questioned how they would distinguish this person from the next one who wants a waiver to appeal and is not a non-profit. Chairman MacAskill said he did not want to set a precedent. He advised that the ZBA needs to make the decision whether to waive the fee as well as make the decision as to whether their conditions were violated. Chairman MacAskill asked if the resident wins at the ZBA, can she come back before the Board and make this request. Mr. Howell pointed out that we have a zoning by-law about lighting to mitigate its effects. Ms. Kavanagh moved

that we deny the request for waiver by a private party for a Board of Appeals filing fee of \$315. The motion was not seconded. Mr. Howell moved that we, subject to the hearing result, waive the \$315 if there is a positive result. The motion was not seconded. Mr. Giorgio said he was nervous because of the precedent this could set and if the Board feels there is merit to fee waivers under certain circumstances that needs to be in the regulation, if it's not in the regulation the fee is the fee and everyone who is similarly situated should pay the same fee. Mr. Giorgio said if the Board does not take action, the fee is in place, and the Board could make a motion to refer this to Town Administration to look at the regulations and come back with a recommendation as to any amendments to the regulations that would be appropriate. Chairman MacAskill moved Mr. Giorgio's recommendation. Mr. Howell seconded the motion and the motion carried by a unanimous vote.

B. Acknowledge receipt of Performance Evaluation for Finance Director/Town Accountant and approve compensation increase

Chairman MacAskill reported that the Board voted a highly favorable performance evaluation and approved a compensation increase in Executive Session for the Finance Director/Town Accountant. Ms. Kavanagh said Ms. Coppola does an amazing job and deserves the increase.

C. Town Administrator evaluation process and timeline

Mr. Howell and Ms. Kavanagh agreed that the Board doing individual evaluations and coming up with a composite score worked well in the past. Chairman MacAskill said he would look at the timeline and bring this back when there is a full Board. Mr. Clark offered to do a self-evaluation and said he is more than willing to work with the existing form. The Board agreed that they would like Mr. Clark to do that.

OLD BUSINESS

A. Annual Town Meeting Warrant
1. One Liners

Mr. Howell moved that we approve support of Article 65 (Establish Annual Tax Title Collection Revolving Account). Ms. Kavanagh seconded the motion and the motion carried by a unanimous vote.

Mr. Howell moved that we support Article 30 (Accept Grant for Saquatucket Harbor Landside Project) in the warrant. Ms. Kavanagh seconded the motion and the motion carried by a unanimous vote.

Mr. Howell moved that we support Article 26 Construction of Pet Cemetery/Fund Equipment for Pet Cemetery. Ms. Kavanagh seconded the motion and the motion carried by a unanimous vote.

Mr. Howell moved that we support Article 10 (Facility Management and Repair Fund) in the amount of \$825,000 from free cash. Ms. Kavanagh seconded the motion and the motion carried by a unanimous vote.

TOWN ADMINISTRATOR'S REPORT

A. Wastewater – Notice to Homeowners

Mr. Clark reported that the community meeting on wastewater is April 19 at the Community Center. He added that the Wastewater Support Committee had put together an informational letter to the residents in the southern section of the Pleasant Bay watershed.

B. Meals on Wheels Program

Mr. Clark reported that he had an opportunity to attend Meals on Wheels delivery and encouraged those who have difficulty preparing meals to see if they are eligible for the program.

C. Departmental Reports

There was no discussion or action on this item.

SELECTMEN'S REPORT

A. Vacancy List – March 2018

Chairman MacAskill reviewed the list of committee vacancies.

ADJOURNMENT

Mr. Howell moved to adjourn at 7:50 p.m. Ms. Kavanagh seconded the motion and the motion carried by a unanimous vote.

Respectfully submitted,

Ann Steidel
Recording Secretary

2018 SEASONAL LIQUOR LICENSE RENEWALS

The Belmont Condominium Beach Club Corp.
dba The Beach
One Belmont Rd.
West Harwich, MA 02671
Erica Goldberg, Manager
Club - All Alcohol

Blue Stripe LLC
dba The Cape Sea Grille
31 Sea St.
Harwich Port, MA 02646
Jennifer Ramler, Manager
Common Victualler - All Alcohol

Port Restaurant and Bar, Inc.
541 Route 28
Harwich Port, MA 02646
Justin R. Brackett, Manager
Common Victualler - All Alcohol

Wychmere Harbor Functions Ltd Partnership
dba Wychmere Harbor Beach & Tennis Club
23 Snow Inn Rd.
Harwich Port, MA 02646
Christopher C. Kolwicz, Manager
Common Victualler - All Alcohol

AJG Corporation
dba The Weatherdeck Restaurant
168 Route 28
West Harwich, MA 02671
George Argyriadis, Manager
Common Victualler - Wine & Malt

Phoenix Park, Inc.
dba The Irish Pub
126 Route 28
West Harwich, MA 02671
Brendan O'Reilly, Manager
Innholder - All Alcohol

Pleasant Bay Group Inc.
dba Wequassett Inn
2173 Route 28
East Harwich, MA 02645
Mark J. Novota, Manager
Innholder - All Alcohol

Charles J. Weiss
dba 7-Eleven 34434A
5 Route 28
West Harwich, MA 02671
Charles J. Weiss, Manager
Package Goods Store - All Alcohol

Go Industries Inc.
dba Perks
545 Route 28
Harwich Port, MA 02646
Taylor Powell, Manager
General On Premise - All Alcohol

Viera LLC
dba Viera Restaurant
11 Route 28
West Harwich, MA 02671
Benjamin Porter, Manager
Common Victualler - All Alcohol

MT Group LLC
dba Mad Minnow Bar & Kitchen
554 Route 28
Harwich Port, MA 02646
Michael Strangfeld, Manager
Common Victualler - All Alcohol

Hot Stove Saloon, Inc.
dba Hot Stove at Cranberry Valley
183 Oak St.
Harwich, MA 02645
Ronald Leidner, Manager
Common Victualler - All Alcohol

Ember Pizza, Inc.
dba Ember
600 Route 28
Harwich Port, MA 02646
Justin R. Brackett, Manager
Common Victualler - All Alcohol

30 Earle Road LLC
dba The Commodore Inn
West Harwich, MA 02671
John Foley, Manager
Common Victualler - All Alcohol

Ten Yen LLC
dba Ten Yen
554 Route 28, Suite B
Harwich Port, MA 02646
Michael Jacek, Manager
Common Victualler - All Alcohol

2018 SEASONAL GENERAL LICENSE RENEWALS

AJG Corp. d/b/a Weatherdeck Restaurant
168 Route 28, West Harwich
Common Victualler

AJG Corp. d/b/a Harbor Glen Miniature Golf
168 Route 28, West Harwich
Miniature Golf - 10:00 a.m. – 10:00 p.m.
Sunday Entertainment – *Miniature Golf, 12:00 p.m. – 10:00 p.m., Sundays seasonally*

Allen Harbor Breeze Inn Realty Trust
d/b/a Allen Harbor Breeze Inn
326 Lower County Road, Harwich Port
Lodging House

Belmont Condo Beach Club d/b/a The Beach
One Belmont Rd., West Harwich
Common Victualler
Weekday Entertainment – *Recorded or live music with use of amplification, dancing by patrons, 10:00 a.m. – 11:00 p.m.*

Blue Stripe, LLC d/b/a Cape Sea Grille
31 Sea St., Harwich Port
Common Victualler
Weekday Entertainment – *Recorded or live music, 5:00 p.m. – 12:00 a.m.*

30 Earle Road LLC d/b/a The Commodore Inn
30 Earle Rd., West Harwich
Common Victualler

Edward L. Kenney d/b/a Captain's Quarters B&B
85 Bank Street, Harwich Port
Lodging House

Go Industries Inc. d/b/a Perks
545 Route 28, Harwich Port
Common Victualler
Weekday Entertainment – *Recorded or live music with use of amplification, guitar player, 6:00 p.m. – 10:00 p.m.*
Sunday Entertainment – *Recorded or live music with use of amplification, 6:00 p.m. – 10:00 p.m.*

Grand Slam Entertainment, Inc.
322 Route 28, Harwich Port
Automatic Amusement – *6 video games*
Batters Box
Sunday Entertainment – *Batters Box, 9:00 a.m. to 10:00 p.m.*

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Hall Karts, Inc.
9 Sisson Rd., Harwich Port
Go Carts
Sunday Entertainment – *Go Carts 9:00 a.m. – 11:00 p.m.*

Hot Stove Inc. d/b/a Hot Stove at Cranberry Valley
183 Oak St., Harwich
Common Victualler

MT Group LLC d/b/a Mad Minnow Bar & Kitchen
554 Route 28, Harwich Port
Common Victualler
Weekday Entertainment - *Recorded or live music, 12:00 p.m. to 10:00 p.m.*

Phoenix Park, Inc. d/b/a Cape Cod Irish Pub
126 Route 28, West Harwich
Common Victualler
Lodging House
Sunday Entertainment – *Recorded or live entertainment with use of amplification, dancing by patrons, 1:00 p.m. – 12:00 a.m. on Sundays seasonally*
Weekday Entertainment – *Recorded or live music with use of amplification, dancing by patrons, 7:00 p.m. – 1:00 a.m.*

Port Restaurant & Bar, Inc. d/b/a The Port Restaurant
541 Route 28, Harwich Port
Common Victualler
Weekday Entertainment – *Recorded or live music with use of amplification, 5:00 p.m. – 12:00 p.m. inside, 5:00 p.m. – 10:00 p.m. on rear deck*

PRM Foods, Inc. d/b/a Harwich Port Dairy Queen
441 Main St., Harwich Port
Common Victualler

Schoolhouse Ice Cream & Yogurt LLC
749 Route 28, Harwich Port
Common Victualler

Scribano's Inc.
d/b/a Scribano's Italian Market & Deli
302 Route 28, Harwich Port
Common Victualler

Stacia M. Kostecki d/b/a Gingerbread House
141 Division St., West Harwich
Lodging House

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Sundae School, Inc. d/b/a Sundae School
606 Route 28, Harwich Port

Common Victualler

Sunday Entertainment – Nickelodeon, 1:00 p.m. – 10:30 p.m., Sundays seasonally

Weekday Entertainment – Nickelodeon, 11:00 a.m. – 10:30 p.m.

Trampoline Center, Inc. d/b/a Trampoline Center
296 Route 28, West Harwich

Sunday Entertainment – 9:00 a.m. – 11:00 p.m.

Trampolines – 9:00 – 11:00 p.m.

Viera LLC

d/b/a Viera Restaurant

11 Route 28, West Harwich

Common Victualler

Wequassett Inn LLP d/b/a Wequassett Inn Resort & Golf Club
2173 Route 28, East Harwich

Innholder

Sunday Entertainment – Mechanical and/or live music with use of amplification, 1:00 p.m. – 12:00 a.m. on Sundays seasonally

Weekday Entertainment – Recorded or live music with use of amplification, dancing by patrons, 7:00 a.m. – 12:00 a.m.

West Harwich Enterprises d/b/a A & W Family Restaurant
297 Route 28, Harwich Port

Common Victualler

Wychmere Harbor Functions Limited Partnership d/b/a Wychmere Harbor Beach & Tennis Club
23 Snow Inn Rd., Harwich Port

Common Victualler

Sunday Entertainment – Recorded or live music with use of amplification, 11:00 a.m. – 1:00 a.m.

Weekday Entertainment – Recorded or live music with use of amplification, dancing by patrons, 11:30 a.m. – 1:00 a.m.

Inside Entertainment - Noise from entertainment may not create a nuisance or be heard outside the boundaries of the premises.

Outside Entertainment – Noise from entertainment must be at reasonable sound levels which are not plainly audible at a distance of 150 feet from boundary line or source of sound amplification system whichever is further.

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Related Documents - 3/26/18 BOS Meeting

- 01 Agenda.pdf
- 02 March 10, 2018 Minutes.pdf
- 03 March 19, 2018 Minutes.pdf
- 04 Seaport Economic Council Grant.pdf
- 05 Request for Donation.pdf
- 06 Resignation from BLCR.pdf
- 07 Article 3 Elected Officials Salaries.pdf
- 08 Article 4 Operating Budget.pdf
- 09 Article 5 MRSD Budget.pdf
- 10 Article 9 Cap Items Funded from FC.pdf
- 11 Article 11 Snow & Ice.pdf
- 12 Article 12 Budget Shortfalls.pdf
- 13 Article 14 Sewer Interconnect.pdf
- 14 Article 21 DPW Vehicles.pdf
- 15 Articles 66-68 Stabilization, OPEB, Unpaid Bills.pdf
- 16 One Liners.pdf
- 17 Opioid Litigation.pdf
- 18 DHY Clean Water Partnership Slides.pdf
- 19 Cold Brook Meeting Slides.pdf
- 20 CDM Smith Brochure.pdf
- 21 Judah Eldredge Property.pdf
- 22 Senator Cyr Letter.pdf
- 23 Departmental Reports.pdf