

Selectmen's Minutes

March 26, 2018

2nd Floor, Town Hall Stage Conference Area, 30 Martin Street

Present: Chairman Lisa J. O'Donnell, Selectman David A. Doane, Selectman Andrew C. Spinney, Town Administrator Brendhan Zubricki, Town Counsel Gregg Corbo, and Selectmen's Assistant Pamela J. Witham.

Also Present: Curt and Lindsay Bergeron, Attorney Robert McCann, Tina Lane, Molly Williamson, and approximately sixty others.

Chairman O'Donnell called the meeting to order at 6:00 p.m. in the second floor stage conference area of the Town Hall at 30 Martin Street and announced that the Board would be moving upstairs to the 3rd floor meeting space due to the large number of persons present.

After everyone had moved upstairs, the Chair announced that the Board would hear Public Comment. Molly Williamson of 8 County Road came before the Board to request that she be given an appointment at the next Selectmen's meeting. It had recently come to the attention of the Board of Health and the Selectboard, that Ms. Williamson was keeping a potbellied pig within five feet of a stream leading toward the Town water supply, which is against a Town bylaw regarding piggeries. Ms. Williamson has moved the pet pig into the house for the time being, but would like to work with the Board to change the bylaw. The Board agreed to meet with her at their next meeting on April 9 to discuss the matter further. The Board asked to have a representative from the Board of Health there for the discussion, as well as perhaps the Animal Health Inspector.

The Chairman entertained a motion to open the Public Hearing concerning an application for an Annual Weekday Entertainment License and an Annual Sunday Entertainment License by the Riversbend Restaurant, 35 Dodge Street. The Riversbend is also seeking approval for 2 One-Day Entertainment Licenses and 2 One-Day Wine & Malt Licenses for two events to be held in a tent on the property. The motion was moved, seconded, and unanimously voted to open. It was apparent that the approximately 60 members of the public who had assembled at the start of the meeting were there to make comments at this public hearing. Curt and Lindsay Bergeron, the owners of the Riversbend, were present with their Attorney, Robert McCann. Town Counsel Gregg Corbo reviewed the parameters and differences regarding an annual weekday entertainment license (for use on Monday through Saturday), an annual Sunday entertainment license, a one-day entertainment license, and a one-day wine & malt license. He also provided commentary regarding the factors that the Board may take into consideration when making a decision on the various applications. Following Attorney Corbo's review, Attorney McCann presented a map of the property. He said that the applicant is requesting an annual weekday entertainment license and an annual Sunday entertainment license to have music during business hours inside the restaurant and on the deck. The music would be varied, and might include a disc jockey or a steel drum band. The restaurant and deck have BOSE speakers and there are acoustic ceiling panels in the restaurant. From time to time, they would also like to host events in a tent on the property, and they have two events planned for which they are seeking one-day licenses

for entertainment and wine and malt. The restaurant would not be open for business when there is an event is being held in the tent. The events would be catered and porta-potties rented for the event.

Attorney Corbo suggested that the one-day wine and malt applications be resubmitted in the name of the manager, instead of the Riversbend, since the law states that one day licenses may only be issued in the name of a natural person, as opposed to annual licenses which may be issued in the name of a corporation. . He also commented that any alcohol used in one-day events needs to be purchased from a wholesaler, separate from alcohol that the restaurant may have on hand under its permanent license.

The Chair asked if anyone present in the audience had any questions and Tom Nonis, Ann Buckley, Jodi Harris, Tom Beale, Gerry Hayward, Guy Bradford, Bill Barker, Ellen Attridge, and Tom Demeo asked questions. Questions ranged from asking how any permitted activities would be monitored by the Town to how the applicant would be able to determine whether the sound from entertainment was too loud for the area.

Chairman O'Donnell read letters from Susan and Neal Whorisky, Cape Ann SUP owner Dominic Olivo, and Will and Hannah Barker in support the Bergerons' request for the licenses. Guy Bradford, Jeff Rubin, Peter Ferriero, and others also voiced their support of the licenses.

These remarks were followed by comments not in favor of granting the licenses from Tom Nomis, Kevin Oyer, Madeline Emmons, Kristin Walker, Ernie Nieberle, Maureen Flatley, Lori Henderson, Jodi Harris, and Alden Blodget. The biggest concerns were about noise and increased traffic.

A comment was made by a neighborhood resident that she is not able to sleep or open windows for fresh air during the busy summer months, when car and truck noise and fumes are considered. More than one person commented that existing operations already give rise to an unreasonable level of traffic, with motorists not particularly being respectful of the rules of the road. Many in the affected neighborhoods consider the existing operation to already be disruptive to their daily lives. Most speakers attested to an unreasonable level of noise from traffic and even from the limited music and gatherings that have occurred to date. One speaker asserted that the peninsula where the establishment is situated is a unique physical feature that amplifies the sound and focuses it on other residential areas, even across the Essex River. Most speakers attested to an already grossly unacceptable level of traffic (both commercial and patron) for a tiny neighborhood. One speaker pointed out that the Riversbend situation is not the same as other establishments that have entertainment licenses in Essex, since those establishments are located on the State Highway or on other major thoroughfares. Those speaking against the proposed licenses clearly agreed that various types of disruptions and nuisances associated with the present scope of operations at Riversbend are already intolerable and urged the Selectmen not to make things worse by allowing any type of additional licensed activity.

Chairman O'Donnell commented that the Board likely had enough testimony on the matter just before 8:00 p.m. Attorney Corbo suggested that the Board continue the hearing to 7:00 p.m. April 9, to allow the Board to consult with Counsel, review Town records, and consult with other Town Departments. A motion was made, seconded, and unanimously voted to continue the discussion and make a determination at the next Selectmen's meeting (April 9), at 7:00 p.m. Chairman O'Donnell announced that additional written comment to the Board would be accepted prior to the April 9th continued hearing date.

Everyone left the meeting except for the Selectboard and their Assistant, the Town Administrator, Town Counsel, Curt and Lindsey Bergeron, Attorney McCann, and Tina Lane.

The Board considered the request from the Riversbend to alter their floorplan by decreasing the number of seats at the bar and moving the bar closer to the wall. Maximum seating for the restaurant and deck area will still continue to total 98. A motion was made, seconded, and unanimously voted to approve the request and the Board signed the documents. The Bergerons and their attorney left the meeting.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$252,631.16.

A motion was made, seconded, and unanimously voted to exempt from Section 20 of Chapter 268A of the General Laws, the contracts and amounts for the individuals listed below contained within the 03/22/18 warrant pursuant to subsection (d) of said Section.

<u>NAME</u>	<u>VENDOR</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DEPT'S BILL</u>
Ernie Nieberle	Nieberle's Service Station	3/22/2018	\$ 82.30	Highway
Ernie Nieberle	Nieberle's Service Station	3/22/2018	\$ 171.95	Highway
Dave Pereen	Pereen Plumbing	3/22/2018	\$ 230.00	Wastewater
Dave Pereen	Pereen Plumbing	3/22/2108	\$ 230.00	Highway
Dave Pereen	Pereen Plumbing	3/22/2018	\$ 250.00	Highway
Dave Pereen	Pereen Plumbing	3/22/2108	\$ 250.00	Sewer

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's March 12, 2018, Open Meeting and Executive Session.

A motion was made, seconded, and unanimously voted to ratify the declaration of a State of Emergency for the last storm that commenced March 12 at 11:00 p.m. through March 14, 2018 at 8:00 a.m.

It was noted that no declaration of a State of Emergency had been declared for the March 21, 2018, storm.

A motion was made, seconded, and unanimously voted to approve a request from the Board of Public Works for an additional \$15,000 for snow removal.

A motion was made, seconded, and unanimously voted to recommend the Water and Sewer Enterprise Fund budgets to the Annual Town Meeting.

It was agreed by the Board to postpone discussion and approval of the Annual Town Meeting, May 7, 2018, Warrant until their meeting on Thursday, March 29, 2018.

A motion was made, seconded, and unanimously voted to appoint, at the recommendation of the Conservation Commission, Cliff Ageloff and Tom Barrieau to fill the vacancies left by Wallace Bruce and Elisabeth Frye. The Board signed the appointment cards.

A motion was made, seconded, and unanimously voted to approve a Memorandum of Understanding between the Essex Council on Aging and the North Shore Cape Ann Topsfield Region Medical Reserve Corps for Senior Well-Check Services.

Concerning Conomo Point matters, a motion was made, seconded, and unanimously voted to approve the removal of Stephanie and Anthony Storella from the lease for 39 Middle Road, Map 108, Lot 21.

A motion was made, seconded, and unanimously voted to issue and sign a license agreement with the Conomo Point Association to attach ramps and floats to the Stone Pier at the Point for the 2018 season.

Mr. Zubricki suggested that the Board table the discussion of his Town Administrator's Report for the period March 10th, 2018 through March 23, 2018, regarding a recent joint meeting of the Strategic Planning and Economic Development Committees, the Northeast Coastal Coalition meeting, and the Coastal Resilience Grant monthly report. The Board agreed.

Acting in their capacity as Licensing Board, a motion was made and seconded to ratify their approval of a Commercial Shellfish Permit and waiver of the late fee for Tomaz Tofuri. The motion carried.

A motion was made, seconded, and unanimously vote to approve the following requests for shellfishing permits:

Commercial Shellfish Permit:

- James Fitzgerald
- Zaim Seraj
- Paul Tofuri
- Eugen Xhalia

Senior Shellfish Permit:

- Bedri Balili

Student Shellfish Permit:

- Cooper Riehl

The Board reviewed a letter from Mark Jordan regarding his request for a Commercial Shellfish Permit and waiver of the late fee, a request to mail license renewal applications in the future, and a request to open the flats on Sundays. The Board stated that they would only review the request for a waiver of the fee at this time, and, following a short discussion, a motion was made, seconded, and unanimously voted to approve the commercial shellfish permit application contingent upon payment of the late fee.

The Board was reminded of the following events and/or meetings:

- Municipal Vulnerability Preparedness (MVP) Workshop on Thursday, April 5th, 2018. The MVP Workshop will take place from 8am to 2:30pm in Essex Town Hall. Breakfast refreshments and lunch will be provided.
- The next regular Board of Selectmen's meeting will take place on Monday, April 9, 2018, at 6:00 p.m. in the Town Hall Stage Conference Room on the second floor, 30 Martin Street.
- Coastal Resilience Grant Public Workshop highlighting the inter-relatedness of emergency planning and coastal resilience planning, April 25, 6:00 to 8:30 p.m., Essex Town Hall.

At 8:17 p.m., citing the need to discuss collective bargaining strategy concerning the collective bargaining agreement between the Town and the Essex Police Benevolent Association; and, the possible purchase, exchange, lease or value of real property relative to a future site for a public safety facility; the Chairman entertained a motion to move to Executive Session pursuant to G.L. c. 30A, §21(a)(3) and (6). She stated that discussing these matters in Open Session would be detrimental to the Town's bargaining and negotiating strategies, and invited the Town Administrator and Town Counsel to attend the Executive Session. She also stated that the Board would only be returning to Open Session to adjourn the meeting. The motion was moved and seconded. Following a unanimous Roll Call Vote, the Board, their Assistant, the Town Administrator, and Town Counsel moved to Executive Session. Tina Lane left the meeting.

The Board, their Assistant, the Town Administrator, and Town Counsel returned to Open Session at 9:26 p.m.

A motion was made, seconded, and unanimously voted to adjourn the meeting.

Documents used during this meeting include the following: None.

Prepared by: _____
Pamela J. Witham

Attested by: _____
Andrew C. Spinney