

Holbrook Board of Selectmen

Minutes of the Regular Session of

Tuesday, January 10, 2012

Present: Timothy J. Gordon, Chairman
Matthew V. Moore, Vice-Chairman (Arrived at 7:15 p.m.)
Brinsley A. Fuller, Clerk
Richard B. McGaughey, Associate
Kevin J. Sheehan, Associate

In attendance: William J. Phelan, Town Administrator
Marjorie E. Godfrey, Selectmen's Secretary

The meeting was called to order at 7:00 pm by Chairman Gordon, in the Selectmen's Meeting Room, 50 North Franklin Street, Holbrook, MA 02343, and began with the Pledge of Allegiance.

MINUTES:

MOTION: By Mr. Fuller, second by Mr. Sheehan, to approve the minutes of the regular session of Monday, November 21, 2011, as printed

VOTE: 3:0:1 (Mr. McGaughey abstained)

MOTION: By Mr. Sheehan, second by Mr. McGaughey, to approve the minutes of the regular session of Thursday, December 8, 2011, as printed

VOTE: 4:0

Action on the minutes of December 13, 2011 was postponed.

Town Administrator William Phelan explained:

- That Treasurer/Collector Paul Digirolamo is going out to BORROW \$300,000, as planned and previously voted by the Board of Selectmen and town meeting, in order to pay bills incurred for a water study. The Selectmen signed the necessary paperwork.
- That he attended a meeting with Mr. Fred Laskey of the Mass. Water Resource Authority (MWRA) and Mr. Richard Brewer, Randolph's representative to the Joint Water Board. Going with the MWRA will mean incurring infrastructure costs or finding different ways to finance the buy in fee. Councilor Brewer suggested that the MWRA construct a pumping station in Randolph in lieu of an MWRA tie in fee. The town would have to keep an emergency water supply available under the law. Next, the cost of this option, including the buy in fee and the cost of the infrastructure, will be reviewed and the MWRA will meet with Mayor Joseph Sullivan of Braintree.
- A proposal on the Union Street paving project has been received.
- The proposal from Melanson Heath for the audit of the Water and Sewer accounts has been signed.

An announcement from the Town Clerk relative to the availability of nomination papers for the annual town election in April 2012 was read.

Mr. Phelan said a suggestion has been received from the Public Works Department that a FEE be established for FINAL WATER READINGS. Surrounding towns charge between \$10 and \$75 to read the water meter when a property changes ownership. A final water reading fee will be addressed again in two weeks.

It was explained by the Town Administrator that the town does not have a written policy on the processing of WATER ABATEMENTS. The Superintendent of Public Works listens to the property owner and makes a decision about an abatement. Mr. Phelan will develop a policy and present it to the Board.

In response to a question about the ACCURACY OF THE WATER METERS, Benjamin Ecord, Supervisor for the Public Works Department, indicated that when there is a question about the accuracy of a meter, a company comes out, and pulls the meter and tests it. The resident is charged a \$30 fee if nothing is wrong with the meter, but it costs the town \$50 for the service.

Discussion took place regarding the ESTIMATED BILLING of water and sewer, and the lack of a written policy. The effect on the town's cash flow relative to changes being made that reduce the quarterly frequency of the bills was discussed. Currently, water bills are paid quarterly, but two quarters are mailed in one envelope, and one of those quarters is estimated. Mr. Phelan advised that changes in the billing could be made when the water source change is made.

CONTINUATION OF THE HEARING FOR AN ALL ALCOHOL PRIVATE CLUB LICENSE FOR SOUTH SHORE POKER CLUB, INC. AT 27 MAPLE AVE., 4R:

7:35 p.m.: Mr. McGaughey recused himself and left the room.

Present: Matthew J. Fogelman, Esq., Fogelman & Fogelman, LLC
Mr. Paul A. Anastasio
William D. Marble, Jr., Chief of Police
Daniel Moriarty, Building Inspector

MOTION: By Mr. Gordon, second by Mr. Fuller, to reopen the continuation of the hearing for an All Alcohol Private Club License in the name of South Shore Poker, Inc. (Paul A. Anastasio, Manager) at 27 Maple Ave., 4R, that was originally opened on December 13, 2011 at 7:15 p.m. The legal notice published in the newspaper was read.

VOTE: 4:0

Mr. Fogelman introduced himself and Mr. Anastasio. He explained that his client is planning to open a private club that would be members only, for a fee, but open to everyone, and compared it to the Elks Club. The members would get together for sporting events on television, drinks, prepared foods, perhaps play billiards, darts, backgammon, chess, etc., and enjoy each other's company. There would be no charity poker. He said the name will be changed to indicate that it is not a poker club. It will be operated as a non-profit with 1 or 2 employees, perhaps a bartender and a waitress. The club will promote community and camaraderie, and will be a safe place for enjoyment. There will be no card games for money. Mr. Anastasio said poker is not the primary purpose of the club. When asked what difference there is between this club and a bar, Mr. Fogelman responded that a bar has no annual fee. Mr. Fogelman explained there will be no kitchen and no cooking. Mr. Anastasio said he has been told by the Police Chief that he will not sign any more charity poker permits. He indicated that the money taken in to the club would benefit the members first, then another charity. There would be a board comprised of voting members who could not be paid if it is a nonprofit. Discussion took place relative to a possible change in use, from being open to the public to now being a private nonprofit, and whether that would discriminate against those who would require handicap accommodations that are not

available at that location. Mr. Anastasio indicated that he would not make any money from the club because officers cannot be paid. He was told that under Ch. 138 Section 1, he will be required to file an annual report with the local licensing authority, including the names and salary of any officers. During a discussion about the food that would be served to members of the club, Mr. Anastasio explained that the food would be already cooked and would just need to be unwrapped and eaten. There would be no prep area or kitchen on site. When Mr. Phelan asked about a problem with the proper notification of a church in preparation for a previous license hearing, when the statute was not followed, Mr. Fogelman said he did not represent Mr. Anastasio at that time, and would not have participated in what Mr. Phelan described. This time, notification was sent from the attorney's office. Mr. Moore asked if any abutters were present at this hearing, and none replied. Discussion took place relative to the poor condition of the fire escape, and notices that have been sent to the landlord, but have been returned by the post office. It was explained that the condition of the fire escape is a serious and dangerous situation, and the Building Inspector indicated he could close the entire building. Mr. Fogelman presented a letter, dated January 9, 2012, from Covenant Fire Protection whose opinion was that there are sufficient exits without the fire escape, which, they indicated, could be blocked off until it is repaired. Mr. Phelan noted that billiards and pool tables also require an application for a license, and read an email from Health Agent Arthur Boyle regarding the need for a kitchen, the use of gloves, time and temperature concerns, hand washing, and food allergy training and posting. Police Chief Marble said he has a concern about poker and explained that he could not come to an agreement with Mr. Anastasio about how charity poker was to be run under the law. Since Mr. Anastasio was purchasing the poker tables from Eastern Poker, he was not to be present during the charity poker games, but he was. Mr. Anastasio said he leased the property, and he was not in the room during the games. Mr. Fogelman said the food that would be served would not need temperature control, but that Mr. Anastasio could buy heaters if necessary. Mr. Gordon said that he has an issue with the club's charitable purpose, and that the purpose should be built prior to the license being issued. Mr. Moore discussed the club's history of donating and indicated that a license would be a one-year commitment. Both Selectmen expressed concerns with the landlord's building issues. Mr. Fuller said he agrees with Mr. Moore, but there is a gray area. Mr. Sheehan expressed a concern about the club growing from 300 members to a larger number and the condition of the fire escape. Fire Chief Edward J. O'Brien sent details concerning the issues he has with the building, including the sprinkler, the fire escape that would fail or pull away from the building, and that the lower level of the building is not properly supported. He has received no correspondence from the building owner relative to his concerns. It was discussed that daily fines could be issued to the building owner, which would be significant.

At 8:55 pm, Mr. Fogelman asked for a short break, while he conferred with Mr. Anastasio outside of the meeting room. The Board indicated they were agreeable. Mr. Fogelman and Mr. Anastasio left the room and returned at 9:03 pm.

Mr. Fogelman explained that the fire escape is a non-issue because there are three means of egress, and suggested that the Board was singling out Mr. Anastasio by enforcing the need for a fire escape. Mr. Moriarty said he spoke with the applicant two weeks ago about this issue. Discussion took place relative to the sprinklers, which are subject to annual testing, and the fire escape, which the Building Inspector indicated is ready to fall off, and that it is under the Inspector's authority to make the decision. Mr. Fogelman suggested removing the fire escape from the building.

It was stressed that Mr. Anastasio needs to provide the Board with an updated statement of the charitable mission of the club.

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Of January 10, 2012*

MOTION: By Mr. Moore, second by Mr. Fuller, to continue the alcohol license hearing on South Shore Poker Club until 7:30 pm on January 24, 2012

VOTE: 4:0

Mr. McGaughey returned to his seat.

Mr. Fred White was present asking that he be appointed by the Board of Selectmen as the Board's appointment to the TOWN GOVERNMENT STUDY COMMITTEE, which was recently re-established at the special town meeting on November 29, 2011. The Board discussed the importance of having a member of the Board of Selectmen on that committee. The moderator will be contacted regarding his appointment to the committee.

MOTION: By Mr. McGaughey, second by Mr. Gordon, to appoint Mr. Fred White to the Town Government Study Committee

VOTE: 5:0

The HISTORICAL COMMISSION forwarded a copy of a letter from Mr. David Dingley asking to be appointed to the Commission, and there is an opening.

MOTION: By Mr. Moore, second by Mr. Fuller, to appoint Mr. David Dingley to the Historical Commission with a term to expire on June 30, 2013

VOTE: 5:0

There is a vacancy on the BOARD OF REGISTRARS due to a recent resignation. The Chairman of the Republican Town Committee, Arthur C. George, forwarded to Town Clerk Jeanmarie Tarara, the names of three residents who are eligible and recommended to fill the position for a Republican on the Board of Registrars, per MGL Ch. 51 Section 15. Those on the list included: Ms. Nancy A. Alterio, 15 Mt. Pleasant Ave.; Ms. Catherine M. Curtis, 4 Birchwood Road; and Ms. Soteria L. George, 193 South Franklin St.

MOTION: By Mr. McGaughey, second by Mr. Fuller, to appoint Mrs. Soteria George to the Board of Registrars, with a term to expire on June 30, 2013

VOTE: 5:0

Mrs. Patricia Harding, who resigned after 20 years of service on the Board of Registrars, was thanked for her service.

There has been another concern from a resident near 394 SOUTH STREET relative to the construction equipment and debris stored at that location.

MOTION: By Mr. Moore, second by Mr. Fuller, to forward the complaint regarding 394 South Street to the Building Inspector and hire counsel again to go to superior court with the complaint

VOTE: 5:0

Mr. Moriarty was thanked by Chief Marble for the work he did that resulted in the closure of a massage parlor.

Town Administrator William Phelan explained that a meeting relative to the status of the TRANSFER STATION will be held within the next week. Following the recent decision regarding zoning, things are optimistic. The Town of Randolph had not filed an appeal of the decision as of January 9th. The Mass. Environmental Protection Agency (MEPA) process will commence in a month or so. There are two state permits that must be obtained, and the project should be before the Board of Health by June, 2012. New investors have come forward now that the project is moving along. Mr. Jack Walsh will attend a Selectmen's meeting to update the Board.

Benjamin Ecord, the Public Works Supervisor, reported that:

- The graffiti on the "Entering Holbrook" sign at the Braintree line has been covered over with paint.
- The security lights at the Castle Canyon playground will be replaced, and the graffiti on the playground equipment will be painted.
- The Public Works Department will do roadside cleanup as staffing permits.
- There were six applicants recently for a position in the PWD. The Town Administrator and Superintendent of Public Works Thomas Cummings have interviewed two of the applicants. Mr. Cummings has completed screenings of the applications for the minimum criteria. There are nine in the department right now, with one due to retire in August, 2012.

It was confirmed that Mrs. Beth Tolson was sworn in today as a member of the Permanent School Building Committee.

Nine candidates are being interviewed for the 4 full-time and 2 part-time positions as Dispatchers for the new regional civilian Fire dispatch and Holbrook Police dispatch, which will allow the Police Chief to assign 2 more officers on the road.

ADJOURN:

MOTION: At 9:45 pm to adjourn the meeting

VOTE: 5:0

Brinsley A. Fuller, Clerk

Documents:

Agenda

Draft minutes

So. Shore Poker Club application

Letter from Mr. Dingley

Resignation from Board of Registrars and

Recommendation of Republican Town Committee

Request for appointment to Town Govt. Study Comm.

Forms for Water Study Bond Anticipation Note

Final Water Readings charge survey