

## **Hull Board of Selectmen**

### **Minutes**

**July 10, 2012**

The meeting of the Hull Board of Selectmen was called to order at 7:30 p.m. on Tuesday evening, July 10, 2012 at the Hull Municipal Building, 253 Atlantic Avenue, Hull, Massachusetts.

Present: John D. Reilly, Jr., Chairman, Domenico Sestito, Vice-Chair, Kevin Richardson, Clerk, Dr. Christopher Olivieri, and, John C. Brannan, Members. Also present were: Philip E. Lemnios, Town Manager, James Lampke, Town Counsel and Karen Morgan, Recording Secretary.

Reilly brought the 7:30 p.m. Public Hearing to order and then suspended it till the arrival of Town Counsel.

Motion: Olivieri makes a Motion to recess the Public Hearing until the arrival of Town Counsel

Second: Sestito

All those in favor, Aye

### **CORRESPONDENCE**

Read aloud by Sestito correspondence regarding Bernadette Raftery – re: Request to have a Luau party on the beach at Phipps Street

*The requested time is August 4, 2012 (4:00 p.m. to 8:00 p.m. – High Tide: 3:37 p.m.) or August 18, 2012 (4:00 p.m. to 8:00 p.m. – High Tide 3:05 p.m.). Reilly stated that there was a response from the Fire Chief to deny Ms. Raftery's request because of open fires and high tide concerns. Lemnios will draft a letter to allow Ms. Raftery the party but with no open fires of any kind.*

Motion: Olivieri makes a Motion to approve the party with the stipulations that they will have no open flames of any type, heating substance, torches, etc.

Second: Richardson

Vote: Unanimous in favor.

### **APPOINTMENT**

7:35 p.m. – PUBLIC HEARING – Beach Fire, LLC dba Beach Fire, Lawrence DeFranco, Jr., and Manager re: Change of description to the All Alcoholic (Annual) as a Restaurant.

This is following up from a year ago. The issue at the time, after the storm of three years ago, Mr. DeFranco made changes to the restaurant by making previously enclosed decks now open decks. The Board gave temporary permission for use of the decks last summer as a trial basis. After that, Mr. DeFranco came down sick and the restaurant wasn't opened and the Board had issues as to how it was handled. No one called the Board to explain the circumstances as to why it was closed, as required by the law. Mr. DeFranco, nor a member of his staff, didn't bring in an updated floor plan of the changes that were made. Mr. DeFranco needed to notify the Town about closing due to illness, etc. The Board noted that all it takes is just a simple letter, phone call or email to inform the necessary people as per this rules and guidelines. This is similar to a violation previously where Mr. DeFranco also failed to notify the Board that he was closing for repairs. He acknowledged failing to notify the Board and felt that the circumstances should excuse him. Town Counsel explained that such notification is also for the safety of public safety personnel and public safety services, as the departments need to know if people are supposed to be on the premises or not. Mr. DeFranco is asking the Board to approve the change in the layout of the business to include the decks and the hours on the deck.

Mr. DeFranco stated that he was under the impression that he was here only to talk about the decks. The first year, the business was a struggle. The back of the bldg. was considered unsafe. He said he never experienced a town that has the rule where you have to ask for permission to close your business. The second year, he admitted he made mistakes and was very ill at the time and didn't follow the law. He didn't want to close his business to disrespect the Town, but did so for financial reasons.

Brannan said that he uncertain about where this hearing is going. Reilly said that Mr. DeFranco changed the orientation of the bar. The Board approved that. Then there were damages from the storm, Mr. DeFranco renovated the decks. Lampke states that the Board gave Mr. DeFranco a temporary approval for the deck and then it was continued to the next meeting which was supposed to be August 30, 2011, but clearly wasn't continued for an indefinite period of time. Then Mr. DeFranco started having issues where he wanted his attorney to be present, but no one heard from the attorney. Lemnios stated that with his recollection was it was the Board's intent to grant the temporary use for the summer to see if they can operate it in a way that would be overly burdensome to the neighbors and at the end of the summer to see how it worked out with all the conditions of operations. There was also supposed to be a meeting with the area residents and Mr. DeFranco.

*A neighbors* said that they made themselves available for a meeting that didn't take place. The decks and the patio were supposed to be cleared by 9:00 p.m. on weeknights and 10:00 p.m. on the weekends. However this year, this has not taken place at all. He witnessed people out at 1:30 a.m. He asks the Board to come up with an enforcement of the hours.

Linda Bain of Ocean Place, said that the restaurant stood vacant from October until the storm occurred the weekend after the holidays. There was an open sign on it and it wasn't opened.

*Another neighbors* said that he would like to see the restaurant abide by the conditions that were agreed to. There is a lot of noise after hours and affects property owners and property values.

Ms. Fletcher, a neighbor, said that she was woken up by foul language in the parking lot between 12:00 – 12:30 a.m. and it's getting worse.

Ms. Hubblesaid that it comes down to an issue of consistency of hours, management and responsibility. She sees people parked on both sides, men urinating, and drunk people.

*Marie Schliefs* said that her experience is different. She would like this to be treated fairly. She has never been disturbed by the restaurant. She feels the restaurant was well run and the staff was courteous. This restaurant was closed for years and still heard the foul language and it's not something Mr. DeFranco can control.

Reilly said that Mr. DeFranco did the work without the Town's approval. The Town could have just turned down the decks last year. Mr. DeFranco didn't want the open decks. The Town gave him a pass last year and the Town is trying to come to some resolution, the Town would like to see Mr. DeFranco succeed, but there is a lack of communication and adequate management issue. It's not a matter of the Town not being fair.

Linda Macke said she walked by Beach Fire a lot. There was always a bouncer guarding the front door, this is not a family restaurant. It is hard to get up the hill as there were a lot of motorcycles, cars and bright lights.

*Another neighbor* said that Beach Fire is supposed to be a family restaurant and everything has changed. The Selectmen at the time said they needed to see a business plan. Further, the 1:00 a.m. curfew was approved based on family entertainment.

Peter Costello said that Mr. DeFranco does not abide by the rules. He can hear loud music from way across the street and there was a lot of smoking on the deck.

*A neighbor* said that there were lots of people in the parkinglot; the issue is if people stay past the curfew. Once people go in the public, people should call the police.

Mr. DeFranco stated that he is around if anyone needs to find him. He has an entertainment license, the deck is closed at 10:00 p.m., the patio doesn't have a time frame, and it closes at 1 a.m. He doesn't have entertainment past 10:00 p.m. He has receipts to show that he was opened October – December. He can't stop people from going out and making noise in the parking lot. His hours always stayed the same. He donated money to Hull with various organizations in the past three years. He had no liquor violations, no underage hits, and no noise violations this year. He submits a letter in support from Atlantic Hill Condominium Trust.

Richardson spoke how Mr. DeFranco has been a good neighbor. The three issues at the time was the music, light on the wall and the wall itself, Mr. DeFranco told the BOS that he immediately had a sound engineer come out and see where the sound was directed. The light was removed and replaced and directed downwards. Mr. DeFranco said he went above and beyond to rectify the wall. He's been responsive. The State and the Hull police should drive by more frequently at night. The BOS never had

any complaints directed with the BOS. A request was made for Lemnios to check with the police department to see if there were any complaints related to Beach Fire.

Brannan said that it would be a disservice to put the restaurant out of business. There are issues that can be remedied. Parking on the road that comes down from the condos should be no parking. If people park there, there should be a fine. Bouncers should be hired to deal with unruly patrons. The wait staff should stop serving certain individuals after a certain point.

Sestito spoke of the original plan. He wanted to know where Mr. DeFranco sees of the future of the restaurant. Mr. DeFranco said that it is still a family restaurant; the sales are with the majority of food sales (7-% food, 30% alcohol). Everything evolves. He never changed with what he has been doing, he always had DJ's on Saturday nights, and he catered to everyone. He feels the business is growing and is getting busier.

Reilly asked about the business plan if certain groups are targeted. Mr. DeFranco said no. The kitchen is closed around 11 p.m. and there is food available at all times.

At this point there is a five minute recess for Mr. Lampke to review paperwork pertaining to the license.

When the hearing resumes back in session, Mr. Lampke spoke about the license where the outside patio is approved and the closing of 1:00 a.m. He said that the hours should be verified with the Office Manager. Mr. DeFranco said that he has service outside on the patio till 1:00 a.m. He has no leeway on the hours to change it.

Motion: Olivierimakes a Motion to approve the use of the 1<sup>st</sup> and 2<sup>nd</sup> floor deck, Sunday – Thursday till 9:00 p.m., Friday - Saturday till 10:00 p.m. No food or alcohol on decks, Sunday – Thursday after 8:30 p.m., Friday –Saturday after 9:30 p.m. Paid police detail (State or County detail) when there is a function over 75 people. Employee parking only on hill, proper signage to be put up.

Second: Sestito w/discussion. He would like clarification with the change of description, specifically to the decks and bar. Lampke said the BOS did approve the bar quite some time ago, Aug. 9, 2011, Olivieri made a motion to approve a deck on the 1<sup>st</sup> floor and an open deck. There was some questions as to if it was actually voted. After the meeting the BOS did vote to confirm that it was their intention to approve that deck. The issue that was stated last year was on the 2<sup>nd</sup> floor deck. The 1<sup>st</sup> floor deck was not of the abutter's concerns.

Motion: Richardson makes a Substitute Motion to keep the hoursat 10:00 p.m. all week to encourage Beach Fire to be a family restaurant. The patio to be opened till 1:00 a.m. No food or alcohol on deck, Sunday – Thursday after 9:30 p.m., Friday –Saturday after 9:30 p.m. For use of the 1<sup>st</sup> and 2<sup>nd</sup> floor deck, Sunday – Thursday till 10:00 p.m., Friday - Saturday till 10:00 p.m.

Second: Brannan w/discussion from Reilly. Mr. DeFranco said that there was no time limit on the lower deck. Lampke said that both Mr. Reilly's Motion and Mr. Richardson's Substitute Motion pertains to the 1<sup>st</sup> and 2<sup>nd</sup> floor decks. Richardson is in agreement with the other stipulations.

Brannan makes an amendment to Richardson's Motion to not address the lower deck.

Motion: Richardson makes a Motion for use of the 2<sup>nd</sup> floor deck, Sunday – Thursday till 10:00 p.m., Friday - Saturday till 10:00 p.m. No food or alcohol on deck, Sunday – Thursday after 9:30 p.m., Friday – Saturday after 9:30 p.m. Paid police detail when there is a function over 75 people. Employee parking only on hill, proper signage to be put up. For Applicant to sign off on Town bylaws, State liquor laws and the ABCC regulations. Temporary use of 1<sup>st</sup> floor deck and return on Oct. 31, 2012 for review. Food should be available to all patrons with the sale of liquor. All other rules and regulations remain applicable.

Second: Brannan

Vote: Unanimous in favor.

Lampke reminded Mr. DeFranco that it was his obligation to schedule an appointment for the review and for any continuation for after October 31, 2012 and not to wait until the last moment to do so.

**Concluded: 10:32 p.m.**

#### **CORRESPONDENCE CONT.**

Read aloud by Reilly correspondence from the Department of Housing and Development – re: CDBG FY2012 Program.

*Leverett Wing wrote to advise the application to the CDBG FY 2012 program not funded. The Department received 56 applications totaling requests for \$49 M for an available amount of \$26.8. Lemnios will make an appointment with Planning Director Robert Fultz for an analysis why this was ranked so low on points.*

Read aloud by Reilly correspondence from the Green Hill Improvement Association – re: Gala Day and requesting permission to close roadway and the Fire Chief's Response to Green Hill Improvement Assoc. request.

*Judith Berry wrote on behalf of Green Hill to inform of the pending Gala Day on Aug. 11<sup>th</sup> at that Green Hill Playground at 10:00 a.m. Also for permission for a block party on Gunrock Avenue from 6-11 between #17A to #42 Gunrock and need approval of the Police and Fire Departments.*

*Fire Chief Hollingshead wrote to Office Manager Janet Bennett about an approval for Gala Day on Greenhill Playground, but the block park is denied due to the limited access, street width, parking issues and safety concerns.*

Motion: Brannan makes a Motion approve Gala Day.

Second: Olivieri

Reilly further moved that the BOS in unable to approve the proposal of Gunrock Avenue and for the Fire Chief to reach out to Ms. Berry to work out something more acceptable.

Motion: Brannan makes a Motion that the BOS is unable to approve the proposal of Gunrock Avenue and for the Fire Chief to reach out to Ms. Berry to work out something more acceptable.

Second: Richardson

Vote: Unanimous in favor.

Read aloud by Reilly correspondence from Jim Leahy – re: Requesting permission to close roadway for a block party.

Motion: Brannan makes a motion requesting permission to close roadway for a block party.

Second: Sestito

Vote: Unanimous in favor.

Read aloud by Reilly correspondence from Scott Greenberg – re: Requesting permission to hold a wedding ceremony on the beach in the Kenberma Section.

Motion: Olivieri makes a Motion to approve permission to hold a wedding ceremony on the beach in Kenberma Section.

Second: Richardson

Vote: Unanimous in favor.

Read aloud by Reilly correspondence from Jason P. McCann – re: Requesting appointment to the Zoning Board of Appeals.

*Reilly said this will be addressed in an upcoming meeting.*

Read aloud by Reilly correspondence Mark J. Gladstone – re: Requesting appointment to the Zoning Board of Appeals.

*Reilly said this will be addressed in an upcoming meeting.*

Read aloud by Reilly correspondence from Janet Bernault – re: Requesting appointment to the Hull Cultural Council.

*Reilly said this will be addressed in an upcoming meeting.*

Read aloud by Reilly correspondence from Don Ritz, Dr. Fulvia Quillici Matteucci, Lory Newmyer and Dennis Riley – re: Requesting re-appointment to the Hull Historical Commission.

*Reilly said this will be addressed in an upcoming meeting.*

Read aloud by Reilly correspondence from Paul T. Newman – re: HRA Parking Lot.

*Newman wrote about beach parking and to make a mandate that the parties that lease the HRA lots be required to post and distribute the Beach Rules similar to the Temple Parking. Reilly feels that this is a good idea that this should be a policy in set for next season when they come in for their license.*

Read aloud by Reilly correspondence from George Boylen – re: St. Anne’s Church Festival  
*Boylen requested that on Aug. 12, 2012 to have the festival procession from A Street pier to the Church at 10:30 a.m. Police presence needs to be in place for safety.*

Motion: Richardson makes a Motion to approve the festival.

Second: Sestito

Vote: Unanimous in favor.

Read aloud by Reilly correspondence from Richard Lorman dated June 22, 2012 to request results of an engineering study concerning Fort Revere.  
*Lemnios said that back in April, an engineering firm performed an evaluation. They recommend that the Tower be closed because of structural concerns. There are some of the cracks to be repaired. At this point, the Tower is closed.*

### **NEW BUSINESS**

Lemnios asked the BOS to look at the BETA Group memo and to schedule for them to come in to discuss the finding on the Kingsley Road Stop Sign Warrant Analysis. The goals of the study are to determine if multi-way stop signs are warranted and what improvements to be implemented to improve safety and traffic control at each intersection.

Lemnios spoke of the Police Fire and Public Works departments’ excellent job on July 4<sup>th</sup>.

Brannan spoke about the water company and the Hingham water study committee presenting a financial report in Hingham on July 11, 2012.

Brannan said that on Monday, July 16<sup>th</sup> at 6:30 p.m. at the Town Hall there will be a Parking Study Committee meeting, it’s been advertised in the paper.

Brannan spoke that the ZBA needs members and for people to get their applications in.

Rhoda Kanet of the Beach Management Committee spoke of the Beach Management Committee summer meeting on July 18, 7:00 p.m. at the Senior Center.

Reilly asked Lemnios to see about the use of the former military housing on Nantasket Avenue in the Telegraph Hill area being used for veteran’s housing.

Reilly stated that the next Selectmen’s meeting will be held July 24, 2012. There will be no executive session this evening.

**The Selectmen meeting adjourned at 10:42 p.m.**

**Respectfully submitted,**

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**Karen Morgan**  
**Recording Secretary**

Approved

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