

BOARD OF SELECTMEN
MEETING MINUTES

10 JUN -4 PM 2:19

April 28, 2010

Approved on May 26, 2010

A meeting of the Orleans Board of Selectmen was held on Wednesday, April 28, 2010 in the Nauset Room of the Town Hall. Present were Chairman Jon R. Fuller, Vice-Chairwoman Margie Fulcher, Clerk Sims McGrath Jr., Selectman David M. Dunford, Selectman Mark E. Carron, Town Administrator John Kelly and Recording Secretary Kristen Holbrook.

Chairman Fuller called the meeting to order at 6:00 PM.

On a motion by Mr. Dunford, and seconded by Mr. McGrath, the Board voted, by way of roll call, to enter into executive session for the purpose of discussing property negotiations. The vote was 4-0-0, with Mr. McGrath, Mr. Dunford, Mr. Fuller and Mr. Carron all voting aye.

Mrs. Fulcher joined the meeting at 6:10 pm.

On a motion by Mr. McGrath, and seconded by Mrs. Fulcher, the Board voted, by way of roll call, to return to open session. The vote was 5-0-0, with Mr. McGrath, Mr. Dunford, Mr. Fuller, Mrs. Fulcher and Mr. Carron all voting aye.

Chairman Fuller reconvened the public session at 6:30 pm.

Public Comment: (00:00:12)

Kris Ramsey, Land Manager of the Orleans Conservation Trust, invited the Board to attend a Conservation Trust presentation from 6:00 pm to 7:15 pm At Snow Library on Tuesday May 4th 2010.

Ed Daly, spoke to the Board regarding an article that he co-wrote which was recently published in the Cape Cod Times.

Ben Buck, a resident of Rock Harbor Road, spoke to the Board regarding the Orleans Pond Coalition.

Sue Rohrbach, a representative of State Senator Robert O'Leary's office, spoke to the Board regarding the current issues being addressed by Senator O'Leary's office. Ms. Rohrbach also read a statement from Mr. O'Leary regarding off shore wind farms, anti-bullying legislation, and gaming.

Approval of Minutes: (00:17:20)

On a motion by Mr. Carron, and seconded by Mr. Dunford, the Board voted to approve the minutes of the April 14, 2010 meeting as amended. The vote was 5-0-0.

6:45 PM Transfer All Alcoholic Beverages Package Goods Store Liquor License: (00:18:42)

Chairman Fuller read the Public Hearing as published in the Cape Codder, and called the public hearing to order.

Paul Covelle, spoke to the Board on behalf of Mr. Dunn. Mr. Covelle stated that Mr. Dunn is experienced in the business.

Mr. Dunford asked for more detail on the experience of the applicant.

Mr. Dunn replied that he has owned and operated restaurants, serving alcohol for the past 25 years.

Mrs. Fulcher asked if Mr. Dunn was a business affiliate of the Luke's Liquor Stores. Mr. Dunn replied that he was friends with the Luke family, but not associated with the business.

Mr. Fuller asked if any of the CORI information had been received.

On a motion by Mr. Dunford, and seconded by Mr. McGrath, the Board voted to approve the transfer of an Annual All Alcoholic Beverages Package Goods Store Liquor License and pledge the license and inventory to Rockland Trust Bank for 2D's Transport, Inc., d/b/a Fuller's Package Store, Frederick R. Dunn, Manager, located at 180 Route 6A, Orleans, MA contingent upon satisfactory CORI results from the State and subject to all local and state permits, licenses and approvals, laws bylaws and in accordance with the Town of Orleans Rules and Regulations of the Liquor Licensing Authority adopted December 21, 1994 amended August 9, 1995 and February 10, 2010 and Massachusetts General Law Chapter 138. Said License to be issued upon approval from the Alcoholic Beverage Control Commission is received and expiring on December 31, 2010. The vote was 4-0-1; Mrs. Fulcher abstained from the vote.

Special One-Day Wine & Malt Beverage Liquor Licenses: (00:26:25)

On a motion by Mrs. Fulcher, and seconded by Mr. McGrath, the Board voted to approve the three applications for Special One-Day Wine and Malt Beverage Liquor Licenses for the Academy of Performing Arts, 1 Academy Place, to serve Wine and Malt Beverages for a function to be held on May 2, 2010 from 2:30 pm to 6:30 pm at 107 Main Street for a pasta dinner fundraising event for the Academy School Scholarship fund, and to serve wine and malt beverages on May 21, 2010 and May 22, 2010 from 7:00 pm to 9:30 pm at 120 Main Street for their opening night receptions and waive the license fees and reduce the filing fees to \$10. This

license is subject to all licenses and bylaws permits and approvals and in accordance with Massachusetts General Law Chapter 138 section 14. The vote was 5-0-0.

On a motion by Mr. McGrath, and seconded by Mr. Dunford, the Board voted to approve the Special One-Day Wine and Malt Beverage Liquor License for the N.Y. Hair Co. & Spa, Ltd. for a function on May 28, 2010 from 4:00 pm to 6:00 pm for a promotional reception celebrating 20 years in business. This license is subject to all licenses and bylaws permits and approvals and in accordance with Massachusetts General Law Chapter 138 section 14. The vote was 5-0-0.

Review of Liquor License Regulations: (00:29:47)

Mr. Kelly presented the Board with a memo from Town Counsel regarding the latitude that the Board may have with the seasonal liquor licenses regulations. Mr. Kelly recommended that the Board hold the item over for discussion with Town Counsel on April 29, 2010.

Mr. Dunford stated that he felt it would be best if the regulations included definitive start dates, but allow for dispensations from the Board. Mr. Carron asked if Town Counsel could rewrite the last sentence of the regulations to include that the board may grant a "delayed opening" along with the extension information.

7:00 p.m. Continuation of Show Cause Hearing: (00:43:10)

Chairman Fuller reconvened the Show Cause Hearing for the Orleans Lobster Pound Restaurant and called for any additional information or witness testimony.

Mrs. DelGizzi spoke to the Board regarding the delayed opening of the business.

Town of Orleans Liquor Licensing Agent, Liana Surdut, informed the Board that Detective Higgins had conducted two compliance checks and the business was not open during the stated times. Ms. Surdut also informed the Board that the business has not applied for their food service permits from the Board of Health.

Mr. Carron stated that he did not recall authorizing a delayed opening in the past. Mr. Kelly stated that the Board had not been aware of the opening in the past, and some years ago, there was a delay in permitting do to fire suppression system issues.

Mr. Carron stated for the record that the Board has never authorized a delayed opening.

Ms. DelGizzi stated that if everything goes forward as scheduled they will be open by the second weekend in May.

Mr. Carron asked for a definite day for full opening. Ms. DelGizzi stated that they would open on May 7th at 5:00 pm.

Mr. Kelly recommended that the Board continue the hearing until May 19th 2010.

On a motion by Mr. Dunford and seconded by Mrs. Fulcher, the Board voted to close the evidentiary portion of the hearing. The vote was 5-0-0.

No public comment was offered.

On a motion by Mr. McGrath, and seconded by Mr. Dunford, the Board voted to continue the Show Cause Hearing for the ADG Inc., LLC d//b/a Lobster Pound to May 19, 2010 at 7:00 pm. The vote was 4-1-0, Mrs. Fulcher voted nay.

Committee Interview and Appointments – Affordable Housing Committee: (00:57:45)

The Board met with and interviewed Orleans resident Susan Meyers regarding her interest in serving on the affordable housing committee.

On a motion by Mr. Carron, and seconded by Mrs. Fulcher, the Board voted to appoint Jon Holt to the Affordable Housing Committee with a term ending date of June 30, 2013. The vote was 5-0-0.

On a motion by Mr. Carron, and seconded by Mrs. Fulcher, the Board voted to appoint Susan Meyers to the Affordable Housing Committee with a term ending date of June 30, 2013. The vote was 5-0-0.

Wastewater Planning Issues/Updates as Necessary: (01:06:00)

Mr. Carron asked what the status of his requests for information on the Pleasant Bay report and the monitoring of groundwater around the capped landfill. Mr. Kelly replied that he not aware of the status of the monitoring of a plume. Mr. Kelly stated that he will follow-up with Mr. Canning and find out the status. He will also ask the Board of Health about the dry cleaning plume. Mr. Carron also stated that he has an article from 3/2010 regarding decentralized wastewater systems. Mr. Carron also presented the Board with an article from the Boston Globe by the Conservation Law Foundation.

Town Administrator's Report: (01:14:00)

Mr. Kelly presented the Board with a request to transfer funds from the Wetland Protection Fund to cover the costs of temporary clerical support for the Conservation Commission.

On a motion by Mr. McGrath, and seconded by Mr. Carron, the Board voted to approve the use of up to \$3,000.00 from the Wetlands Protection Fund for the purpose of funding a temporary clerical position in the Conservation Department. The vote was 5-0-0.

On a motion by Mr. McGrath, and seconded by Mr. Dunford, the Board voted to approve the exercise of the power of eminent domain by the Commissioner of the Department of Conservation and Recreation, acting pursuant to and in accordance with Section 3 and 3A of Chapter 132A of the General Laws, to acquire in fee the parcel of land located in the Town of Orleans identified as

follows: Mayo Parcel shown on the Orleans Assessor's Plan as Map 67, Parcel 11, 0.10 acres. The vote was 5-0-0.

Mr. Kelly presented the Board with information on the Big Belly Solar Compactors, acquired through the Massachusetts Renewable Energy Trust grant program and now installed in the Village Center.

Mr. Kelly provided the Board with a report from Assistant Town Planner John Jannell on the Cape Cod Regional Transit Authority Advisory Board meeting.

Mr. Dunford asked if he could see the number of riders per trip. Mr. McGrath stated that it would be helpful if the Cape Cod Regional Transit Authority could track the rider ship of the modified routes as well.

Liaison Reports: (01:25:58)

Mr. Carron reported on a recent meeting of the Finance Committee.

Mrs. Fulcher presented the Board with information on the proclamation request the Board had received.

On a motion by Mrs. Fulcher, and seconded by Mr. McGrath, the Board voted to proclaim May 2nd through 8th 2010 as Teacher Appreciation Week in the Town of Orleans. The vote was 5-0-0.

Mrs. Fulcher also updated the Board with information from a recent meeting of the Fourth of July Committee.

Mr. Fuller presented the Board with information on recent meetings of the Lighthouse Charter School Committee and a meeting of the Planning Board.

Any other business: (01:38:44)

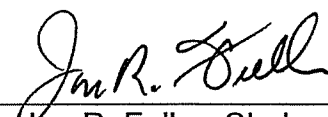
Mr. Carron mentioned a Department of Environmental Protection seminar meeting at the Mattacheese Middle School.

Mr. McGrath mentioned that the Board might want to resubmit the request for the necessary repairs to the stop lines at Pond Road.

Adjourn: (01:44:00)

On a motion by Mrs. Fulcher, and seconded by Mr. Dunford, the Board voted to adjourn. The vote was 5-0-0.

Respectfully submitted,
Kristen Holbrook



Jon R. Fuller, Clerk

