



TOWN OF WAYLAND

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AFR
6/28/2010

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BOARD OF SELECTMEN

JOHN BLADON
STEVEN J. CORREIA
THOMAS J. FAY
JOSEPH F. NOLAN
SUSAN W. POPE

Board of Selectmen Meeting Minutes May 24, 2010

Attendance: J. Bladon, S. Correia, T. Fay, J. Nolan, S. Pope

Also Present: Town Administrator F. Turkington, Secretary M. DiNapoli

Chair J. Nolan called the meeting of the Board of Selectmen to order at 7:00 p.m. in the Selectmen's Meeting Room and reviewed the agenda for the viewing audience. F. Turkington reminded all newly elected officials that they need to be sworn in at the Town Clerk's office, and he reviewed the upcoming Memorial Day events.

A7. Consider and Approve Consent Calendar S. Pope moved, seconded by S. Correia, to approve consent calendar items 1, 2, 4, 5, 6, 7 and 8 (warrants SA052410, BA052410 and TA052410). YEA: J. Bladon, S. Correia, T. Fay, J. Nolan, S. Pope. NAY: none. ABSTAIN: none. Adopted 5-0.

A8. Review Correspondence The Board discussed the week's correspondence. F. Turkington highlighted the vacancies on several boards and committees.

A2. Interview Candidates for Economic Development Committee Julieann Esper Rainville appeared before the Board to interview for a position on the Economic Development Committee. She reviewed her background in investment banking, venture capital, and corporate development, and her interest in serving on the committee.

A3. Liquor Violation Hearing – Dudley Chateau J. Nolan opened the hearing at 7:29 p.m. for the liquor license violation at the Dudley Chateau. The Board was joined by Police Chief Robert Irving, Town Counsel Mark Lanza, and Attorney John Mahaney representing the Dudley Chateau. J. Nolan reviewed the procedure for the hearing and read the notice of the hearing into the record. R. Irving reviewed the charges being made in regard to the evening of April 7, 2010. He said Wayland police responded to a call that a patron at the Dudley Chateau, James Franchek, had left the establishment intoxicated and had threatened to commit suicide. Police, firefighters, search dogs and a helicopter were called to locate the missing person. He said there was no on-site manager present at the Dudley Chateau during the incident as required by the town and by the operations plan submitted by the Dudley Chateau. Sergeant Jamie Berger and responding Officer Tyler Castagno reviewed their report of the evening in question and played the 911 tape of Amelia Spence. J. Berger noted that according to manager Ken Phillips, the manager on duty that evening was Donna Ralphs; however, he has not been able to contact D. Ralphs since the night of April 7. R. Irving said on April 21, he was provided with a new roster of managers by Bar Manager Liz Luthin which listed five new managers. He said the preponderance of evidence shows that the Dudley Chateau served alcoholic beverages to an intoxicated person in violation of Massachusetts General Laws Chapter 139, Section 69; violated the town regulations regarding the presence of an on-site manager, and violated the terms of its probation.

J. Mahaney questioned the police officers regarding the charge of service to an intoxicated person. He noted there was no sobriety check done and questioned the amount of alcohol consumed by J. Franchek. T. Fay questioned the police officers regarding the on-site manager. J. Berger said that in testimony on April 26, the manager on duty, Brad Labbe, said that the manager on April 7 was Ariel Antobenedetto. R. Irving said that name was not on the roster of managers provided to the police for that date. T. Fay asked if a licensee can declare an employee to be a manager at any time. R. Irving said no. J. Mahaney said the town had not proven that J. Franchek was intoxicated while being served. He said that the on-site manager that evening was Donna Ralphs, who has been a bartender at the Dudley Chateau for approximately a year and has a current TIPS certificate. D. Ralphs appeared before the Board and said that J. Franchek did not appear intoxicated, and that she was the on-site manager that evening. R. Irving asked why she did not identify herself as such that evening. She said it was a misunderstanding; she thought the police officers had asked for the owner. R. Irving asked why she had not responded to Officer Berger. She said she had made a full statement, and was waiting to speak at a meeting with the Police Chief. The Board deliberated whether J. Franchek was intoxicated on the evening of April 7, and remarked on the difficulty of obtaining cooperation from D. Ralphs. Jon Leehey, 3 Brook Trail Road, said he was at the Dudley Chateau that evening, and J. Franchek did not appear intoxicated. Andy Ferguson, 22 Parkland Drive, said he sat next to J. Franchek that night, and he appeared peculiar although not intoxicated. Carly Dofton, 292 Bacon Street, Natick, and part-time cook at the Dudley Chateau, said she was present that evening as a patron, and J. Franchek was not intoxicated. She said the on-site manager that evening was D. Ralphs.

M. Lanza defined “preponderance of evidence” for the Board as it relates to this matter. J. Nolan said there was no evidence of drunkenness on the part of J. Franchek. T. Fay agreed, but said he believed that no manager was on duty, in clear violation of the Board’s previous ruling, and also in clear violation of the Dudley Chateau’s “Operations Plan Relative to the Sale of Food and Alcoholic Beverages on the Licensed Premise.” J. Bladon agreed there was not sufficient evidence of drunkenness, but that he also believed there was no manager on duty. S. Pope said the actions of the Dudley Chateau were disappointing. S. Correia said there was a reasonable doubt about the level of intoxication; he said he did not believe a manager was on duty, and he didn’t like the lack of cooperation with the police.

M. Lanza said the Dudley Chateau is on probation, and the penalty for any violation is the revocation of their liquor license, at the Board’s discretion. He also noted that the actual manager of the business is still Dennis Sullivan, as the ABCC did not approve the Change of Manager application. J. Nolan said the Change of Manager application was denied because the owner, Dennis Sullivan, still owed state meals tax. He said the Board is responsible for the situation because it has created an environment where it is not conducive to the Dudley Chateau to call the police for help, and he said the Board needs to create a more thoughtful document. S. Pope said the first inclination of the management should always be to call the police at the first sign of any trouble. T. Fay suggested that the license to serve liquor be suspended for 28 days, and may not be renewed until they provide the Wayland Police with a clear roster of all managers. R. Irving said there remains confusion about what constitutes a manager. He also said that he has told the manager, Ken Phillips, on several occasions that the police must be called immediately, and that calling the police will not prejudice the town against him. S. Pope suggested that the license be suspended for 14 days. S. Correia said the manager requirement needs to be clarified. M. Lanza said the operations plan could be revised.

The hearing was closed at 10:20 p.m. T. Fay moved, seconded by S. Pope, that after hearing the evidence, the Board finds that during the evening on April 7, 2010, when alcoholic beverages were being sold or

delivered on the licensed premises, a manager was not present as required by the town's rules relative to the Provision and Consumption of Alcoholic Beverages, and based on the evidence, the Board votes to suspend Dudley Chateau of Cochituate, Inc.'s Common Victualler's All Alcoholic Beverages License for a period of fourteen (14) days from June 1, 2010 to and including June 14, 2010. YEA: J. Bladon, S. Correia, T. Fay, J. Nolan, S. Pope. NAY: none. ABSTAIN: none. Adopted 5-0. M. Lanza noted that the Dudley Chateau of Cochituate, Inc. may appeal this decision to the Commonwealth of Massachusetts Alcoholic Beverages Control Commission within five days of the notice of decision.

There was no action on the transfer of license application for the Dudley Chateau of Cochituate Inc.

A4. Update of Traffic Pattern Adjustments around Happy Hollow School R. Irving recommended that the traffic adjustments in place at the Happy Hollow School be continued, and it was the consensus of the Board to accept his recommendation.

A5. Public Comment Anette Lewis, 37 Claypit Hill Road, expressed concern regarding three items on the evening's Consent Calendar. In regard to item 5, she said the Board did not have jurisdiction to appoint Anna Meliones to the Community Preservation Committee. On item 7, the invoice to Foley & Hoag, she said she could not ascertain from the Consent Calendar the subject matter of the invoice. She requested that in the future, all Consent Calendar legal invoices include the subject matter, the matter number assigned by the law firm, and the account number from which the town will pay the invoice. She asked that a correction be made to her statements in the minutes of May 3, 2010.

A6. Organizational Matters J. Nolan described Board policy with regard to the selection of a chair and indicated his intent to follow the tradition of not serving consecutive terms unless no one else steps forward. S. Correia indicated his interest in serving as chair, citing his growth in two years as a Selectman and his interest in providing leadership to the Board. T. Fay expressed his interest in serving as Vice Chair, believing he could contribute in new ways having entered his second year on the Board. S. Pope moved, seconded by J. Bladon, to elect Tom Fay as Vice Chair/Clerk of the Board of Selectmen for a term to expire at the conclusion of the first Board meeting following the 2011 Annual Town Meeting. YEA: J. Bladon, S. Correia, T. Fay, J. Nolan, S. Pope. NAY: none. ABSTAIN: none. Adopted 5-0. T. Fay moved, seconded by S. Pope, to elect Steve Correia as Chair of the Board of Selectmen for a term to expire at the conclusion of the first Board meeting following the 2011 Annual Town Meeting. YEA: J. Bladon, S. Correia, T. Fay, J. Nolan, S. Pope. NAY: none. ABSTAIN: none. Adopted 5-0. It was the consensus of the Board that the draft portfolio assignments were acceptable to all members. F. Turkington asked members to provide vacation schedules so he could prepare a schedule of meetings for June-August with the understanding that the Board would continue meeting on Mondays as a general rule, twice a month or so in the summer, spaced to provide adequate action and to assure four members would be available, and that the agenda would be posted by Thursday at 4:30 p.m. after July 1st to comply with changes in the Open Meeting Law, and that packets would be distributed either Thursday evening or Friday afternoon, depending on the office workload. It was the consensus of the Board to hold office hours on a trial basis to determine community interest and the best time to attract citizens to attend. It was suggested that the sites and hours vary to capture different segments of the population; i.e., Council on Aging offices during a weekday morning, early evening separate from posted meetings, etc. It was agreed that pairs of Selectmen should host the hours with the understanding it is a listening and information exchange forum. No decisions or obligations of the Board can occur.

A8. Review Correspondence The Board discussed the week's correspondence.

A9. Report of the Town Administrator F. Turkington reviewed the website development process, noting it would go live tentatively on June 23 and a demonstration would be given to the Board on June 21. The Board reviewed the vacancy list and the outreach efforts to publicize positions. F. Turkington discussed the actions that require follow-up from the Annual Town Meeting, tentative planning underway for the fall Special Town Meeting, and progress on flood mitigation measures. He also reviewed future agenda topics.

A10. Selectmen's Reports and Concerns T. Fay moved, seconded by S. Pope, to appoint Julieann Esper Rainville to the Economic Development Team for a term that will expire on June 30, 2013. YEA: J. Bladon, S. Correia, T. Fay, J. Nolan, S. Pope. NAY: none. ABSTAIN: none. Adopted 5-0. J. Nolan indicated a willingness to continue to serve as the Board's representative on the MWRTA board until such time as his consulting work may create a possible conflict of interest. S. Correia agreed to that suggestion. No action was taken on a liaison to the Suburban Coalition. S. Pope thanked F. Turkington for his role in the preparation of Annual Town Meeting and for securing a sign for Traditions.

A1. Executive Session At 10:54 p.m., the Board of Selectmen, by roll call vote, unanimously (5-0) approved a motion brought by T. Fay and seconded by S. Pope, to go into executive session pursuant to Massachusetts General Laws Chapter 39, Section 23B (3) to discuss strategies with respect to (i) pending litigation with BSC relative to the Public Safety Building and (ii) collective bargaining because a public discussion of these matters will have a detrimental effect on the litigating and bargaining position of the Town. The Board will return to open session in approximately ten minutes for the sole purpose of adjourning the meeting.

The Board returned to open session at 11:13 p.m.

T. Fay moved, seconded by S. Pope, to adjourn the meeting of the Board of Selectmen at 11:13 p.m. YEA: J. Bladon, S. Correia, T. Fay, J. Nolan, S. Pope. NAY: none. ABSTAIN: none. Adopted 5-0.



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CONFIDENTIAL

Board of Selectmen Executive Session Minutes May 24, 2010

Attendance: J. Bladon, S. Correia, T. Fay, J. Nolan, S. Pope
Also Present: Town Administrator F. Turkington

Purpose: The session was called at 10:54 p.m. in the Selectmen's Meeting Room, Wayland Town Building, by unanimous roll call vote (5-0) in open session as permitted by M.G.L. Chapter 39, Section 23B, paragraph three, to discuss strategies with respect to (i) pending litigation with BSC relative to the Public Safety Building and (ii) collective bargaining because a public discussion of these matters will have a detrimental effect on the litigating and bargaining position of the Town.

Discussion: F. Turkington briefed the Board on the health insurance proposal for the successor contract under negotiation with teachers and the suggestion by the Finance Committee to offer stipends in lieu of COLA increases to the wage tables in FY12, with a COLA wage increase in FY13. F. Turkington reviewed the status of town contracts; he said four were settled, three are in negotiations, and one is yet to start. The town is keeping to one year proposals with 0% change in wages for FY11.

T. Fay briefed the Board on the delay in mediation to mid-June due to a change in counsel for BSC and reported on efforts to secure an expert witness who switched employers.

Adjourn: By motion of S. Pope, seconded by T. Fay, the Board, by roll call vote, unanimously voted to exit executive session at 11:13 p.m.