



**Town of Wellfleet - Board of Selectmen
Town Hall Meeting Room
April 28, 2011**

Chair Jacqui Beebe called the meeting to order at 7:00 p.m. Selectmen present included Ira Wood, Dale Donovan, Berta Bruinooge, and Jerry Houk. Rex Peterson, Assistant Town Administrator, and Jeanne Maclauchlan, Principal Clerk was also present.

I. Business Licenses for Rental Properties

Ms. Beebe said that a public hearing was held of April 19, 2011 regarding the issuance of business licenses for rental properties. At the Selectmen's meeting before Town Meeting on April 25, 2011, the Board voted to schedule a meeting for April 28, 2011 to reconsider their previous vote and to continue discussion of the topic. She said that the meeting tonight was not a public hearing and that there would be limited opportunity for public comment and input.

Gerry Parent asked if tonight's meeting was a continuation of the public hearing held on April 19, 2011. Ms. Beebe said no. Mr. Parent asked if this was a "new meeting with a new agenda". Ms. Beebe said yes. Mr. Parent asked if tonight's meeting was advertised in the newspaper. Ms. Beebe said no. Mr. Parent read from the General By-law, Article 10, Section 6, number 2:

2. The Board of Selectmen may determine from time to time, after a public hearing, notice of which shall be advertised at least seven (7) days prior thereto in a newspaper in general circulation in the Town, which types of business shall be required to obtain General Business Licenses and the fee(s) required for said licenses. Procedures and requirements for the issuance of both the registration required by Paragraph 1 of this Section and the General Business License shall be set forth in Rules and Regulations promulgated by the Board of Selectmen pursuant to the authority conferred upon them in Section 3-5-1 of the Wellfleet Home Rule Charter.

Mr. Parent asked if the public had been duly noticed. Mr. Donovan said that when the Board holds a duly noticed public hearing, as it did on April 19, it is not a requirement that a vote be taken within the public hearing. He added that tonight's Selectmen's meeting was noticed in accordance with the Open Meeting Law. Gail Ferguson asked if the public notice in the newspaper for the April 19 public hearing was the same as the agenda posted on the Town website. She said the agenda description gave inadequate information about what would be discussed.

John Duane asked what the purpose of tonight's meeting is. Ms. Beebe said it was called so that the full board could consider the licensing of rental properties. Mr. Houk said the purpose was to re-vote the decision made at the April 19, 2011 public hearing.

Mr. Donovan presented a draft application for the proposed business license (attached to these minutes). Mr. Wood asked why the draft application was not given to the Selectmen before the meeting. Mr. Donovan said that he would include one additional item on the application; a statement that the dwelling complies with all other State and Federal regulations. Mr. Donovan said that in his opinion, it would be irresponsible for Wellfleet to be the only town on the Outer Cape without regulations for rental properties and no revenue generated from rentals. Ms. Beebe said that she had researched what other towns require, and found a wide diversity of programs and regulations. She said it was important to figure out how many rental units exist, where they are and who is renting. She saw the role of the Selectmen as developing the policy and then the regulations and procedures would be developed by staff and the administration.

Mr. Houk said it was his opinion that tonight's meeting should have been advertised as a public hearing. He said the issue of rental certificates had been before Town Meeting twice and was defeated both times. In his 16 years as Selectman, he does not remember the board ever meeting to reconsider a vote. Mr. Donovan said that the proposals brought to Town Meeting were quite different than the one currently being considered, and they included enforcement via beach stickers. Mr. Houk asked if the current proposal would be tied to beach stickers. Mr. Donovan said no. Ms. Beebe read section 3.5 of the Charter regarding Selectmen's responsibility:

Section 3-5 Specific Powers, Duties, and Responsibilities

3-5-1 The Board of Selectmen shall act as the licensing authority of the Town and shall have the power and responsibility required to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses, and to attach conditions and impose such restrictions as it considers to be in the public interest, and further to enforce, or cause to be enforced the laws, rules, and regulations relating to all business for which it issues licenses.

Mr. Houk said that in addition to the \$50 fee for the license, there is a processing fee of \$20. He asked if the licensing requirement would apply to year-round rentals. Mr. Donovan said the requirement would apply to all rentals except those that are affordable or are paying the State room tax. Steve Oliver said that it would be more palatable to applicants to make the fee \$70 rather than one fee for the license and one for processing.

Frank Szedlak said that residents fear the unknown. He described how the rental registration program in Eastham developed and expanded over the years. He also pointed out that the current proposal requires an annual water test that would add another \$25 to the cost.

Gail Ferguson said that courts strike down laws that are overly broad with inadequate regulations and standards, and laws that come from a legally defective process. She believes tonight's discussion is substantially different than the discussion at the April 19 public hearing. She also said that she does not believe that rentals are a "service" and are therefore not subject to licensing. Ms. Bruinooge disagreed, and said rentals are a business in her view. Mr. Wood said he does not agree that rentals are covered under the definition of "commodities and services" the Selectmen are allowed to license. He wants to issue decided by the voters at Town Meeting.

Mr. Parent and Mr. Duane said that requiring an annual water test for all units would create problems in terms of the volume of tests and the fact that many rental properties are owned by nonresidents. They suggested requiring a test every three years.

Mr. Donovan moved that under the authority of the Wellfleet General By-laws (Article X, Section 6, Paragraphs 1, 2, 3) that all rental units be shall be registered with the Board of Selectmen and shall obtain a "General Business License" prior to commencing or conducting said business. This requirement shall be effective as of January 1, 2012. Ms. Bruinooge seconded the motion. The vote was three in favor (Beebe, Donovan and Bruinooge) and two opposed (Wood and Houk). [Motion 11-00122]

Mr. Donovan moved that the requirements and procedures presented in the draft application be adopted after review by Town Counsel and appropriate department heads, with revision to the water test requirement amended to every three years and not required for properties connected to the municipal water system and that prior to the issuance of a Business License, all rental applications will be reviewed to determine compliance with State and local regulations. Ms. Bruinooge seconded the motion. The vote was three in favor (Beebe, Donovan and Bruinooge) and two opposed (Wood and Houk). [Motion 11-00123]

II. Discussion of Police Chief Contract

Ms. Beebe said that she had spoken to Town Counsel who advised moving ahead with the appointment. She said that the Town needs a Police Chief who will help plan for the future. Mr. Houk added that the new Chief should work closely with the Town Administrator. Mr. Houk made a motion to appoint Acting Police Chief Ronald Fisette as the Chief pending negotiation of a contract. Mr. Wood seconded the motion. The vote in favor of the motion was unanimous (Beebe, Wood, Houk, Donovan, Bruinooge). [Motion 11-00124]

III. Other Business

Assistant Town Administrator Rex Peterson presented his contract for signature. Mr. Wood said that the Board had received an e-mail from Darren Klein (Town Counsel)

requesting two additional changes to the contract. The first was to delete the reference to “Chapter 41, Section 108N of the General Laws” from the preamble. The second change is to add a clause that states that the contract is subject to an annual appropriation. Ms. Beebe said this language was being added to all contracts. Mr. Peterson said that he had not been informed of the proposed changes, but was agreeable to both.

Mr. Donovan moved that the Selectmen sign the Assistant Town Administrator’s contract contingent on the two changes proposed on April 27, 2011 by Darren Klein. Ms. Bruinooge seconded the motion. The vote was four in favor (Donovan, Wood, Houk and Bruinooge) and one abstaining (Beebe). Ms. Beebe said she could not sign the contract because she had not reviewed it. [Motion 11-00125]

Meeting adjourned at 8:35 p.m.

Respectfully submitted,

Rex Peterson, Assistant Town Administrator