



## **Board of Selectmen** **Regular Meeting Minutes** **April 26, 2016**

*The regular meeting was called to order at 6:00 p.m. in the Town Hall Hearing Room by Chairman Erik Tolley. Selectmen present: Norm Holcomb, Jim Quirk, Tracy Post, and Michael Stone. Also attending: Interim Town Administrator, Peter Johnson-Staub.*

### **1. Public Announcements & Comments**

*Mr. Tom Sullivan commented on the Designated Veterans Sign agenda item on tonight's agenda. As Chairman of the local chapter of the Disabled American Veterans, he is supportive of this initiative. He recommended that the sign include "Veterans Plates Required" or "Veterans Plates Suggested." He then explained how veterans can apply for veterans' plates.*

*Ms. Andrea St. Germain reported that she and Superintendent Woodbury attended the Massachusetts Association of School Committees and Massachusetts Association of School Superintendents conference in Boston recently. Some of the topics discussed were reimbursement to the towns for free and reduced fee lunch programs within the schools and the funding formula for charter schools. Additionally, she informed the Board and the public of the various activities the schools and students will be involved in over the next month.*

*Selectman Holcomb asked Ms. St. Germain why the School Committee has not taken legal action on behalf of the students in the D-Y School District against the state due to the low number of special needs students enrolled in charter schools and the funding formula used by the state for charter schools. Ms. St. Germain suggested that was an option the school committee has not pursued.*

*Mr. Tom Nickinello commented on the Clean-Up Day held on April 23rd and that despite the rain, there were many volunteers and businesses that participated. He reminded the Board of the Candidates Night to be hosted by the Yarmouth Chamber of Commerce on April 27th in the hearing room.*

*Ms. Vida Morris commented on a speaker at the School Committee meeting the previous night who asked if the town would be providing babysitting services during town meeting on May 7, 2016 and hoped that taxpayer funds were not being used for babysitting services. Selectman Post stated that school employees normally provide babysitting services for both Dennis's and Yarmouth's town meetings.*

*Ms. Morris also commented on the Finance Committee's refusal to provide funding to the Board of Selectmen for the town administrator search. She asked if it was possible to get a legal opinion from town counsel on the merits of the Finance Committee's decision. Chairman Tolley explained that Town Accountant Rich Bienvenue provided information to the Board as to state mandates of obligating funds not appropriated at town meeting and other options available to the Board. Mr. Johnson-Staub advised Ms. Morris that town counsel reviewed Mr. Bienvenue's brief and concurred with his findings.*

*Mr. Al Keller made comments in support of the Packet Landing Pavilion project. As a charter and commercial fisherman, he sees the volume of visitors to Packet Landing and feels the town needs to invest in improving the area and the facilities available to town residents and visitors.*

## 2. Public Hearing

Chairman Tolley turned the meeting over to Licensing Chairman Stone.

a. Karen Butler - Special Alcohol and Entertainment Licenses for a wedding reception at Taylor-Bray Farm, 108 Bray Farm Road North, Yarmouth Port, MA. Ms. Karen Butler was present for the hearing. Selectman Stone read the legal ad into the record. Ms. Butler explained that her daughter is being married on June 25, 2016 and she would like the wedding and reception to take place at Taylor-Bray Farm. The event will be catered, liquor service will be provided by the same caterer, and a DJ will be providing music for the wedding. The Board members asked about the liquor licensing and the certificate of insurance for the event.

**MOTION: To move that the Board of Selectmen close the public hearing.**

**Motion by: Jim Quirk**

**Seconded by: Tracy Post**

**Yea 5    Nay 0**

**MOTION: To move that the Board of Selectmen approve special alcohol and entertainment licenses to Karen Butler for June 25 through June 27, 2016 contingent upon receipt of a certificate of insurance which includes the town as a certificate holder.**

**Motion by: Jim Quirk**

**Seconded by: Norm Holcomb**

**Yea 5    Nay 0**

b. Celebrate Yarmouth, Inc. Special Wine & Malt and Special Entertainment Licenses, Bass River Beach, 220 South Street, South Yarmouth, MA. Mr. Simmons and Mr. Butler from the Celebrate Yarmouth Committee were present for the hearing. Selectman Stone read the legal ad into the record. Mr. Butler explained the events being added to the Summer Celebration this year, including the beer and wine tasting at Bass River Beach. He explained how the ticketed sales would be organized, the limited ounces of beer and wine to be sold per ticket, his coordination with Officer Magnuson on the licensing requirements, and the police detail which would be present. Mr. Tom Nickinello spoke in support of the event.

**MOTION: To move that the Board of Selectmen close the public hearing.**

**Motion by: Tracy Post**

**Seconded by: Jim Quirk**

**Yea 5    Nay 0**

**MOTION: To move that the Board of Selectmen approve special wine and malt and special entertainment licenses to Celebrate Yarmouth, Inc. for June 30 through July 1, 2016 contingent upon receipt of a certificate of insurance which includes the town as a certificate holder.**

**Motion by: Jim Quirk**

**Seconded by: Norm Holcomb**

**Yea 5    Nay 0**

c. Friends of Yarmouth Council on Aging Special Wine License, Senior Center, 528 Forest Road, South Yarmouth, MA. Senior Services Director Kathi Bailey and Chairman of the Council on Aging Ray Petrocelli were present for the hearing. Selectman Stone read the legal ad into the record. Mr. Petrocelli outlined the "Italian Festival" to be held at the Senior Center on Friday, April 29, 2016, which will include a complimentary wine tasting.

**MOTION: To move that the Board of Selectmen close the public hearing.**

**Motion by: Jim Quirk**

**Seconded by: Norm Holcomb**

**Yea 5    Nay 0**

**MOTION: To move that the Board of Selectmen approve a special wine license to Friends of Yarmouth Council on Aging.**

**Motion by: Jim Quirk**

**Seconded by: Norm Holcomb**

**Yea 5 Nay 0**

d. Sea Dog Brew Pub New Annual All Alcohol Restaurant and Weekday and Sunday Entertainment Licenses, 23 White's Path, Unit V, South Yarmouth, MA. Attorney Christopher Fiset and Mr. Peter Lucido of Sea Dog Brew Pub were present for the hearing. Selectman Stone read the legal ad into the record. Atty. Fiset explained the location of the proposed restaurant and tavern, and the expansion of Sea Dog Brew Pub into Yarmouth as they have other locations in New England. Mr. Tom Nickinellio, Yarmouth Chamber of Commerce, spoke on behalf of the Chamber in support of the Sea Dog Brew Pub. Mr. Lucido explained the type of restaurant he intends to run as a family-oriented restaurant with a 60/40 ratio of food to beverage sales which will serve pub food and American cuisine. Selectman Stone explained the new requirement for license holders to attend a new training course which explains the state and local requirements for licensees. The Board had several questions regarding crowd control, maximum seating, and amplification of music, which were adequately answered by Mr. Lucido.

**MOTION: To move that the Board of Selectmen close the public hearing.**

**Motion by: Jim Quirk**

**Seconded by: Tracy Post**

**Yea 5 Nay 0**

**MOTION: To move that the Board of Selectmen approve New Annual All Alcohol Restaurant and Weekday and Sunday Entertainment Licenses to Sea Dog Brew Pub, LLC.**

**Motion by: Jim Quirk**

**Seconded by: Tracy Post**

**Yea 5 Nay 0**

e. Parks & Beaches Rules & Regulations. Parks & Recreation Director Pat Armstrong and Natural Resources Director Karl vonHone were present for the hearing. Selectman Stone read the legal ad into the record. Ms. Armstrong explained to the Board that after they approved the new parks and beaches rules and regulations on March 1, 2016, it was discovered that dog regulations for the parks were not addressed. This latest proposed change to the parks rules and regulations includes restrictions on unauthorized vehicles on the beaches and off roadways in the parks, prohibits dogs at parks with playing fields (Peter Home Park, Sandy Pond Recreation Area, Flax Pond Recreation Area, and John Simpkins Fields), and requires permitting for cooking fires at the parks. The Board requested clarification on which parks dogs are authorized.

This hearing will be continued for a second reading at the May 3, 2016 meeting. Selectman Stone turned the meeting back over to Chairman Tolley.

### **3. Town Counsel Appointment**

Selectman Stone began the discussion stating he is comfortable with two of the candidates that the Board interviewed but thought the Board should discuss whether they want to continue the process by interviewing off-Cape firms; and whether the Board wants to consider another letter of interest that was submitted by a local attorney who was not aware of the deadline for application. He did feel that going off-Cape would probably result in higher legal expenses for the town. Mr. Stone stated his choices for town counsel would be either Jamie Veara or Chuck Sabatt.

Selectman Quirk expressed his view that he also believes the town has been well served for the past 60 years with local town counsel and feels we should continue that practice. He also feels the off-Cape firms would be more expensive and also agrees with Mr. Stone's choices for town counsel.

Selectman Holcomb commented that legal costs are directly related to the level of service used or expected from an attorney. He feels that limiting ourselves to local firms without even looking at off-Cape firms would be a mistake. He also feels the Board should interview the attorney who submitted his letter of interest after the due date. Mr. Quirk stated that if the Board felt they needed to interview more firms, he is not opposed to that and he also agrees that the Board should consider the attorney who submitted his letter late. Selectman Post stated that she prefers a local firm, particularly if a town administrator is appointed that is not very familiar with local municipal government as the legal expenses would increase.

Chairman Tolley stated he is not opposed to expanding the search to other firms though he feels there are two candidates locally he would be comfortable with. A discussion was held on the terms of any appointment made and if a contract should be negotiated. The Board also discussed concerns with one of the firms interviewed and felt he should be given an opportunity to speak to media reports on a matter he was involved with. The Board agreed that they would expand the interview process to include off-Cape firms. Chairman Tolley stated that he is not in favor of allowing an interview to the attorney who submitted his letter of interest past the deadline due to not seeing the advertisement for the position. The Board agreed they would interview two additional firms from off-Cape: Kopelman & Paige, and Blatman, Bobrowski, Mead & Talerman. Town counsel interviews will be added to the meeting on May 24th.

#### 4. Designated Veteran Parking

Selectman Post explained that she has seen and heard about other communities establishing designated veteran parking spaces and felt Yarmouth town hall should also have a designated veteran parking space. She acknowledged Mr. Sullivan's comments about requiring veterans' license plates but felt that process was too cumbersome and that the honor system was sufficient. Chairman Tolley suggested that the parking space be located in front of the memorial on the front lawn of town hall.

**MOTION: To move that the Board of Selectmen approve a designated parking space sign "Reserved Military Veteran Parking - The Town of Yarmouth Thanks You For Your Service" in front of town hall and thanks Plymouth Sign for their donation.**

**Motion by: Tracy Post**

**Seconded by: Jim Quirk**

**Yea 5 Nay 0**

#### 5. Approve Election Warrant (Revised)

Mr. Johnson-Staub explained that the previously approved election warrant did not include ballot questions for the D-Y Schools debt exemption.

**MOTION: To move that the Board of Selectmen approve and sign the election warrant as revised.**

**Motion by: Tracy Post**

**Seconded by: Jim Quirk**

**Yea 5 Nay 0**

#### 6. Town Meeting

a. Article Assignments: The following article assignments were made:

- 1) Selectman Stone: Articles 11, 16, 17, 18, 19, 32, 33
- 2) Selectman Holcomb: Articles 3, 8, 9, 10, 13, 36, 37, 38
- 3) Chairman Tolley: Articles 2, 4, 5, 6, 7, 15

- 4) Selectman Quirk: Articles 1, 12, 14, 20, 21, 34, 35  
 5) Selectman Post: Articles 22-31

b. Article 1 and Article 21 Recommendations. Mr. Johnson-Staub reminded the Board that they voted to make a motion from the floor for Article 1 to fund snow and ice and the town administrator search. Selectman Post, while chairing an earlier meeting on this article, wanted to postpone the Board's recommendation until all Board members were present. He also advised the Board he was prepared to give them the monetary figure for Article 21, Wage Settlements, to be amended from the floor.

Discussion was held on Article 1 and the Board not wanting to jeopardize the funds for snow and ice while some members not necessarily supporting additional funds for another town administrator search. Chairman Tolley concluded that he would agree to recommend this article so that the snow and ice funding is available and so that the town administrator search can move forward as well, in the best interest of the Town.

Selectman Holcomb commented that given the Board's actions and decisions previously, the Board must move forward with the process of initiating another town administrator search. Selectman Stone commented that the Finance Committee has put the Board in the position of having to take this matter to Town Meeting.

**MOTION: To move that the Board of Selectmen recommend Article #1 at Town meeting.**

**Motion by: Norm Holcomb**

**Seconded by: Mike Stone**

**Yea 4 Nay 0 Abstain 1**

Mr. Johnson-Staub provided a number to the Board for Article 21 - Wage Settlements but cautioned that due to ongoing collective bargaining negotiations this number does not represent an ultimatum as the town is required to bargain in good faith. The figure represents wage increases for all seven unions, and non-union town employees for FY17 and the figure is \$465,000 for Article 21. This figure represents a COLA of 2%. Selectman Holcomb commented that the COLA of 2% and a 1% step increase, the cost is actually a 3% raise. He mentioned that many companies in industry maintain a 3% increase in wages. He stated that, as he has argued before, a 3% increase may well be affordable by the Town but still represents taxpayer funds for the wage increases while many senior residents of the town living on social security do not receive any increase in their income. Mr. Holcomb stated that though a 3% increase is reasonable and comparable to the private sector, the benefits the town provides to town employees is substantially more than private industry. He suggested the Board needs to look further into the entire compensation package, including overtime that town employees receive.

**MOTION: To move that the Board of Selectmen recommend moving Article #21 in the amount of \$465,000 at Town meeting.**

**Motion by: Jim Quirk**

**Seconded by: Tracy Post**

**Yea 4 Nay 1**

## **7. Board of Selectmen**

- a. Approval of Minutes

**MOTION: To move that the Board of Selectmen approve the Board of Selectmen minutes of March 15, March 22\*, and March 29, 2016.**

**Motion by: Norm Holcomb**

**Seconded by: Jim Quirk**

**Yea 5 Nay 0**

**\*Chairman Tolley abstained from a vote on approving the minutes of March 22, 2016 due to his absence at that meeting.**

b. Individual Items

1) Selectman Stone commented that he attended the first seminar that YPD hosted last week which is now a new requirement for all alcohol license holders. Approximately one-third of Yarmouth's establishments were represented. He complimented Officer Phil Magnuson on his presentation and materials of rules and regulations which he provided, which were well organized and well presented.

Additionally, he attended the "Think Before You Drink" program that the Yarmouth Substance Abuse Committee held at Mattacheese Middle School earlier this month. He commented that the program was well presented and informative with professional and knowledgeable guest speakers.

Selectman Post offered her condolences to the family of Mr. Ed Blackman who was a long-time advocate for housing in Yarmouth. Mr. Blackman passed away over the weekend.

Ms. Post thanked Roby Whitehouse and the Chamber of Commerce for their involvement with the Yarmouth Clean-up Day which was held over the weekend and was a great success. She also reminded everyone that the raccoon rabies vaccine baiting began on April 25th and will conclude on May 20th; the Age with Dignity program will be held at the Yarmouth Senior Center on Thursday, April 28th from 4:00 - 6:00 p.m.; and the 15th Annual Sheep Festival will be held on Sunday, June 12th from 9 a.m. - 4 p.m. at Taylor-Bray Farm.

Selectman Holcomb mentioned that he received an email from a resident on Vesper Lane regarding the damaged antique mile marker and the condition of the sidewalks around the Yarmouth Port Village. Mr. Holcomb is going to meet with this resident on Friday at 2 p.m.

Chairman Tolley commented that the town sponsored a volunteer appreciation breakfast on Wednesday, April 13, 2016 which was modestly attended. He hopes that once we hold these functions on a regular basis, more volunteers will attend as the program was well attended in past years.

**8. Town Administrator's Items**

a. Consent Agenda

- 1) Proposed Letter to MassDOT re: Route 6 Signs
- 2) Memo from Peter Johnson-Staub re: Extension of Appointment as Interim Town Administrator

**Donations:**

- YFD
    - Laura Ward \$ 50.00
    - TOPS MA #0487 \$ 25.00
- TOTAL \$75.00**

**MOTION: To move that the Board of Selectmen approve the Consent Agenda.**

**Motion by: Norm Holcomb      Seconded by: Tracy Post      Yea 3    Nay 0    Abstain 2**

b. Town Administrator Updates. None.

## **9. Adjourn**

**MOTION: To move that the Board of Selectmen adjourn the meeting.**

**Motion by: Jim Quirk      Seconded by: Tracy Post      Yea 5    Nay 0**

Respectfully submitted,



Linda Dennehy



## DISTRIBUTED MATERIAL AGENDA PACKET

- Karen Butler Wedding Reception Application for Special Alcohol and Entertainment Licenses for wedding reception at Taylor-Bray Farm, 108 Bray Farm Road North, Yarmouth Port, MA
- Celebrate Yarmouth, Inc. Application for Special Wine & Malt and Special Entertainment Licenses, Bass River Beach, 220 South Street, South Yarmouth, MA
- Friends of Yarmouth Council on Aging Application for Special Wine License, Senior Center, 528 Forest Road, South Yarmouth, MA
- Sea Dog Brew Pub Application for New Annual All Alcohol Restaurant and Weekday and Sunday Entertainment Licenses, 23 White's Path, Unit V, South Yarmouth, MA
- Proposed Parks & Beaches Rules & Regulations
- Letter of Interest from Zisson & Veara, P.C.
- Letter of Interest from Charles M. Sabatt, P.C.
- Letter of Interest from Law Offices of Jason M. Rawlins
- Letter of Interest from Michael P. Marnik, Attorney-at-Law
- Memo to BOS from Interim Town Administrator dated April 13, 2016 re: Dedicated Veteran Parking Space with Sample Reserved Military Veteran Parking Sign
- Memo to BOS from Interim Town Administrator dated April 20, 2016 re: Election Warrant with DYRSD Capital Items for FY17 and Revised ATE Warrant
- Annual Town Meeting Summary for Article Assignments (ATM Motion)
- Board of Selectmen Meeting Minutes of March 15, 2016
- Board of Selectmen Meeting Minutes of March 22, 2016
- Board of Selectmen Meeting Minutes of March 29, 2016
- Proposed Letter to MassDOT re: Route 6 Signs
- Memo from Peter Johnson-Staub re: Extension of Appointment as Interim Town Administrator
- Memo to Interim Town Administrator from YFD dated April 11, 2016 re: Gifts
- Memo to Interim Town Administrator from YFD dated April 19, 2016 re: Gifts
- BOS Projected 2016 Agenda Items
- Letter to BOS from Celebrate Yarmouth, Inc. dated February 10, 2016 re: Use of Town Property Applications for Summer Celebration Kick-Off (NOTE: No fee waivers are included in these use of town property applications - provided for INFO only)
- Letter to Department of Public Utilities from Director of Community Development dated April 14, 2016 re: Eversource Grid Modernization Plan
- Letter to Massachusetts Department of Housing and Community Development dated April 15, 2016 re: Yarmouth Housing Production Plan
- Cape Cod Commission Hearing Notice for Harwich Comprehensive Wastewater Management Plan
- Board of Health's Raccoon Rabies Vaccine Baiting Schedule
- FOYCOA Italian Festival Flyer
- The Age of Dignity Flyer
- Dr. Bill Thomas / 2016 Age of Disruption Flyer
- Taylor-Bray Farm 15th Annual Sheep Festival Flyer
- The "CAT" - April 2016 Volume 5, Issue 3