



Board of Selectmen Meeting Minutes October 24, 2017

The meeting was called to order at approximately 6:00 p.m. in the Training Room of the Yarmouth Police Station by Chairman Tracy Post. Selectmen present: Mike Stone, Norm Holcomb, Erik Tolley, and Mark Forest. Also attending: Yarmouth Town Administrator Dan Knapik; and Yarmouth Assistant Town Administrator, Chris Dwelley.

1. Public Announcements & Comments

Vida Morris spoke in support of the ULITAP recommendations. She also questioned the figures printed on the Cape Cod Regional Technical School ballot.

2. Public Hearing

a. Show Cause Hearing for Tasty Buffet, 228 Route 28, W. Yarmouth MA. Licensing Chair Mike Stone read the legal notice into the record and swore in the witnesses. Assistant Manager Jun Zhang was present. Mr. Stone read from a letter from Yarmouth Police Officer Phil Magnuson which stated that on July 31, 2017 Officer Erica Wenberg witnessed a disc jockey playing music, patrons dancing, and alcohol being served at the Tasty Buffet at 1:00 a.m. Officer Wenberg advised Jun Zhang that alcohol service had to stop. She returned to the Tasty Buffet at 4:30 p.m. on July 31st to request copies of the alcohol training certificates. Mr. Zhang provided his, but did not know if the other server, Yang Zhoam, had one. Officer Wenberg was told that the owner is only on premises a couple of times a week. When Officer Wenberg returned on September 8th, she was told by Ms. Zhoam that she had not completed TIPS training. There was also concern about strong odors and food storage. Health Director Bruce Murphy conducted an inspection. The building's occupancy is limited to 200, but there were over 300 chairs. On September 11th, Officer Wenberg returned and obtained a copy of the Town's Rules & Regulations, but Mr. Zhang did not have a record to indicate that employees had reviewed them, nor did he have an employee list. The application for this license was made in 2016, and there was a meeting with Officer Magnuson, who noted concern with language issues. Potential violations include no crowd control manager; unlicensed entertainment; failure to have employee review of Rules and Regulations; and uncertified server.

Mr. Stone questioned Officer Wenberg, who confirmed the report of Officer Magnuson. Mr. Zhang had no questions for Officer Wenberg and did not dispute her testimony. He indicated that it was a private party and the organizer misled him about the dancing. The extra chairs are used for bus groups. The manager is pregnant and on bed rest. Mr. Zhang was not aware of the hours of the entertainment license, although he acknowledged reading the rules and regulations. Ms. Post pointed out that it is the manager's responsibility to train the employees and ensure they are TIPS certified, regardless of the language barrier. Mr. Tolley and Building Inspector Brad Inkley noted that the extra chairs need to be removed from the building. Discussion followed regarding the use of chair-count in determining occupancy compliance.

MOTION: To move that the Board of Selectmen find a violation of 204 CMR 2.05 by reason of having unlicensed entertainment in violation of MGL Chapter 140 Section 183(a).

Motion by: Tracy Post

Seconded by: Norm Holcomb

Yea 5

Nay 0

MOTION: To move that the Board of Selectmen find a violation of Local Rules & Regulations Section 1.01 (c) by reason of failure to have employee review Yarmouth Rules & Regulations with record of employee review.

Motion by: Tracy Post Seconded by: Norm Holcomb Yea 5 Nay 0

Mr. Stone reviewed Section 1.05 (b). Mr. Tolley noted that there was no overcrowding. The violation was in having more chairs than indicated in the approved plan.

MOTION: To move that the Board of Selectmen find a violation of Section 1.05 (a) by reason of failure to comply with the approved floor plan by addition of approximately 150 seats in excess of licensed seating capacity.

Motion by: Norm Holcomb Seconded by: Tracy Post Yea 5 Nay 0

Mr. Stone reviewed Section 1.09 (a).

MOTION: To move that the Board of Selectmen find a violation of Section 1.09 (a) by reason of employment of a non-certified alcohol server.

Motion by: Tracy Post Seconded by: Norm Holcomb Yea 5 Nay 0

Mr. Stone reviewed Section 1.09 (b).

MOTION: To move that the Board of Selectmen find a violation of Section 1.09 (b) by reason of failure to maintain employee list with dates of hire and ages.

Motion by: Tracy Post Seconded by: Norm Holcomb Yea 5 Nay 0

Regarding the potential violation of 204 CMR 2.05, failure to have a crowd manager: no finding; regarding the potential violation of dancing without a license (Paragraph C): no finding.

MOTION: To move that the Board of Selectmen find a violation of Section 2 (d) by reason of allowing entertainment beyond the hours stated in the license.

Motion by: Tracy Post Seconded by: Norm Holcomb Yea 5 Nay 0

MOTION: To move that the Board of Selectmen find a violation of Section 2 (b) by reason of allowing audible noise outside the building.

Motion by: Erik Tolley Seconded by: Norm Holcomb Yea 5 Nay 0

Mr. Stone reviewed the possible penalties; discussion followed.

MOTION: To move that the Board of Selectmen impose a 2-day suspension to be held in abeyance for one year.

Motion by: Tracy Post Seconded by: Norm Holcomb

Discussion followed regarding the language problem in relation to employee training. Mr. Stone advised Mr. Zhang that it is incumbent on the employer to ensure that employees understand the law.

VOTE: Yea 5 Nay 0

Mr. Zhang asked for relief regarding the number of seats in the building. He was advised to bring the matter to the Building and Health Departments.

MOTION: To move that the Tasty Buffet provide a copy of the employees' certifications of review of the Rules & Regulations, and an employee list to the Town by the close of business on Friday.

Motion by: Tracy Post Seconded by: Norm Holcomb Yea 5 Nay 0

b. Golf Enterprise Fee Hearing. Ms. Post read the legal notice into the record. Director of Golf Operations Jim Armentrout introduced members of the Golf Enterprise Committee. An across-the-board increase of roughly 5% is being recommended. Mr. Armentrout provided a slide presentation on course improvements, finances, participation, member benefits, and 2018 proposed fee schedule. Challenges continue to be the aging resident demographic; course maintenance; competition; and marketing. At its October 16th meeting, the Golf Enterprise Committee voted to recommend that discounted fees be restricted to off-peak periods after 12:00 p.m.

There was no public input. The Board requested a breakdown of the overhead costs. There was also discussion about running the restaurants versus leasing them. Improvements on the courses are expected to increase revenues, otherwise resident annual membership fees may have to be re-examined. A second public hearing will be scheduled.

3. Vineyard Wind LLC Update

Erich Stephens, Chief Development Officer for Vineyard Wind, presented a proposal for an offshore wind farm south of Martha's Vineyard and Nantucket, in partnership with Vineyard Power. The cable route is currently in design, and construction is hoped to begin in 2020. Vineyard Wind is seeking the support of the Town for a Community Benefit Agreement to land the cables at New Hampshire Avenue, where they will run underground in concrete ducts alongside existing utilities to an existing substation. Work would be done in the off-season and streets returned to new condition. This route was previously vetted and permitted for the Cape Wind project. There are currently five power cables running through Nantucket Sound. Benefits to the Town include substantial new tax revenue with no associated costs/demands on public services; roadway improvements, including installation of sidewalks; replacement of water service where necessary; additional available capacity within the ducts for additional "taxpayers," with the Town's permission. While there would be short-term road construction, Vineyard Wind would fund an independent inspector during construction and a \$125,000 additional contingency payment to the Town at the start of construction. Vineyard Wind intends to hold more public information meetings.

Mr. Stephens responded to questions from the Board regarding environmental impacts, noting that there is no liquid in the cables running underwater, and a containment system will be built to protect against onshore spills. The Town would have the final say as to what other services could run through the ducts. The "tax floor" could be in the neighborhood of \$450,000 a year to the Town. Mr. Stephens reviewed the permitting necessary prior to construction. Vineyard Wind has already gained guidance from fisheries representatives and environmental groups. They will be holding Open Houses on November 8th and 14th and will continue working on the Agreement in hopes of a Board of Selectmen review in mid-November. Mr. Knapik explained that the Cape Wind Agreement was used as a template, and escalated for inflation while being mindful of the competitive bid process.

The Board asked for clarification from Town Counsel regarding the role of Town Meeting in the process.

4. CVEC / Round 1 Adder Renewal

MOTION: To table the renewal vote to the next meeting.

Motion by: Mark Forest

(Mr. Stone was not present.)

Seconded by: Norm Holcomb

Yea 3 Nay 1

5. Free Cash Presentation

Town Accountant Rich Bienvenue reviewed the Standing & Poor's Rating Criteria, Town financial policies, and the Free Cash history. Free Cash as of June 30, 2017 was slightly over \$3 million. He noted that the inflation rate for health insurance is roughly 10-15%, compared to the rest of the budget at 2-3%. Possible uses for Free Cash include tax rate reduction (not recommended); contingent liabilities (like OPEB); capital stabilization funds; unexpected occurrences (like snow and ice). The Town's good budget practices are reflected in the S&P ratings.

Mr. Bienvenue responded to questions from the Board. The current cash stabilization fund has approximately \$3.1 million; capital stabilization has roughly \$650,000. The S&P target for cash stabilization is \$3.5 to \$7 million.

6. Board of Selectmen

a. Board and Committee Actions

1) Appointments Chair Mark Forest recommended appointing Paul O'Bryan as a regular member to the Board of Health to fill an unexpired term, which will run through October, 2018.

MOTION: To appoint Paul O'Bryan as a regular member to the Board of Health to fill an unexpired term, which will run through October, 2018.

Motion by: Erik Tolley Seconded by: Tracy Post Yea 5 Nay 0

2) Appointments Chair Mark Forest recommended appointing Ellen Chapman as a regular member to the Golf Enterprise Committee for a three-year term, which will run through April, 2020.

MOTION: To appoint Ellen Chapman as a regular member to the Golf Enterprise Committee for a three-year term, which will run through April, 2020.

Motion by: Norm Holcomb Seconded by: Tracy Post Yea 5 Nay 0

b. Approval of Board of Selectmen Meeting Minutes for April 11, 2017; April 25, 2017; May 2, 2017; May 23, 2017; June 6, 2017; and June 20, 2017

MOTION: To move that the Board of Selectmen approve the minutes as presented.

Motion by: Erik Tolley Seconded by: Mark Forest Yea 5 Nay 0

c. Upcoming Agenda Review. The Mattacheese Owner's Project Manager will be available the week of November 4th to meet with Dennis and Yarmouth Finance Committees, Boards of Selectmen, and the School Committee to provide rough cost estimates. Mr. Knapik will schedule. Mr. Tolley asked to add a discussion on capacity vs. occupancy. Mr. Knapik will consult Town Counsel and the Building Commissioner.

d. Individual Items. Mr. Holcomb reported that at the D-Y School Agreement Subcommittee meeting, Dennis requested that Yarmouth Selectmen take a vote on their intention for remaining in the district. Town Counsel will be consulted. The next meeting is in two weeks. Ms. Post reported that the Seaside Festival Committee would like consideration on some Police Department bills. Mr. Knapik will follow-up on the details.

7. Town Administrator's Items

a. Consent Agenda. Community Development Director Karen Greene reviewed the lease agreement and work contract for the Taylor Bray Farm.

MOTION: To move that the Board of Selectmen approve the consent agenda.

Motion by: Erik Tolley

Seconded by: Norm Holcomb

Yea 5 Nay 0

b. Town Administrator Updates. Mr. Knapik announced Mr. Jack McCormack as the Yarmouth Chamber of Commerce Citizen of the Year.

c. Water Resources Planning. None.

d. Dennis-Yarmouth School Agreement. None

e. Mattacheese School Project. None.

f. Drive-In Site Utilization Project. None.

g. Cape Tech Update. None.

8. Adjourn

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

Motion by: Erik Tolley

Seconded by: Norm Holcomb

Yea 5 Nay 0

The meeting adjourned at approximately 10:10 p.m.

Respectfully submitted,



Linda Dennehy

DISTRIBUTED MATERIAL AGENDA PACKET

- Show Cause Hearing Documents for Tasty Buffet
- Golf Enterprise Committee Fee Hearing Presentation
- Vineyard Wind Update (presentation will be provided via separate cover)
- CVEC / Round 1 Adder Renewal and Draft Letter from BOS
- Free Cash Projections PowerPoint Presentation
- Memo to BOS from Appointments Chair dated October 17, 2017 re: Board of Health Appointment
- Memo to BOS from Appointments Chair dated October 17, 2017 re: Golf Enterprise Committee Appointment
- Board of Selectmen Meeting Minutes for April 11, 2017
- Board of Selectmen Meeting Minutes for April 25, 2017
- Board of Selectmen Meeting Minutes for May 2, 2017
- Board of Selectmen Meeting Minutes for May 23, 2017
- Board of Selectmen Meeting Minutes for June 6, 2017
- Board of Selectmen Meeting Minutes for June 20, 2017
- 2017 BOS Upcoming Agenda Items Schedule
- Certificate of Adoption of the 2017 Yarmouth Hazard Mitigation Plan
- Memo to BOS from Director of Community Development dated October 18, 2017 re: Lease Agreement - Taylor-Bray Farm
- Proclamation for John H. (Jack) McCormack as Yarmouth Chamber of Commerce's Citizen of the Year
- Memo to BOS from Parks and Recreation dated September 25, 2017 re: Donations
- Memo to BOS from Parks and Recreation dated October 16, 2017 re: Donations
- Memo to Town Administrator from Libraries dated October 5, 2017 re: Donations
- Memo to BOS from Chief Frederickson dated October 17, 2017 re: Donation Approval Request
- Board of Health Meeting Agenda for October 16, 2017 (Interview)
- Board of Health Meeting Agenda for October 16, 2107
- Email from Gerardi's Cafe dated October 11, 2017 re: Request to Close