



Town of West Newbury Board of Selectmen

Monday, August 21, 2017 7:00 p.m.
381 Main Street, Town Office Building
www.wnewbury.org

Chairman David Archibald called the meeting to order at 6:20pm. In attendance were Selectmen David W. Archibald, Chairman, Glenn A. Kemper and Joseph H. Anderson, Jr. Also in attendance: Town Counsel Michael McCarron and Executive Administrator Mary Winglass.

Chairman Archibald moved to go into Executive Session under MGL Chapter 30A §21(a) 6: To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body. Second by Selectman Anderson with a unanimous roll call vote: Anderson – aye, Archibald – aye, Kemper – aye.

Chairman Archibald moved to close the executive session at 6:52pm. Second by Selectman Kemper with a unanimous roll call vote: Archibald – aye, Anderson – aye, Kemper – aye.

Chairman Archibald reconvened the open session at 7:07 PM in the First-Floor Hearing Room.

Announcements

- Chairman Archibald announced that the Fall Town Meeting will be held on October 23, 2017 at 7pm in the Annex.
- Chairman Archibald thanked everyone for the donations for the Food Pantry and read a letter from Theresa Woodbury, Director of Council on Aging. The letter thanked Tim Beech's work that he did for his eagle scout project by updating a space in the basement for the food pantry. The letter further thanked the residents, Fire Department, Police Department, and G.A.R. Library for their donations to the food pantry. Director Woodbury stated in her letter that the Council on Aging has partnered with the Newburyport Public Health Nurse, and Nourishing the North Shore to offer fresh veggies during the summer and fall. Woodbury provided the Board with statistical information; canned food that is within the 3 months of the "Best Buy date" is placed in a different section and anyone can take as much as they want.

Regular Business

- I. Interviews with applicants for appointed positions

The Board met with Forbes Durey regarding his application for the Finance Committee. Mr. Durey holds a Bachelors in Economics, corporate planning, budgeting, P&L responsibilities, vendor negotiations and capital purchase experience. Mr. Durey is aware of the time commitment that is required and is looking forward to the opportunity to serve.

Selectman Anderson made a motion to appoint Forbes Durey as a member of the Finance Committee with a term ending June 30, 2020. Second by Chairman Archibald. Motion Passed.

The Board met with Gregory Garnache regarding his application for the Bicentennial Committee. Mr. Garnache has 30 years in sales to include presentation skills, organizing and management skills.

Selectman Anderson made a motion to appoint Greg Garnache as a member of the Bicentennial Committee through a term ending June 30, 2018. Seconded by Selectman Kemper. Motion passed.

The Board met with Judith Gregg on her application for the Bicentennial Committee, Open Space Committee or Zoning Board of Appeals Committee. She currently is the Secretary of Friends of the Library. The Board briefly discussed the meeting schedules on each committee.

Selectman Kemper made a motion to appoint Judith Gregg as a member of the Bicentennial Committee through a term ending June 30, 2018. Seconded by Chairman Archibald. Motion Passed.

Selectman Kemper made a motion to appoint Judith Gregg as a member of the Zoning Board of Appeals through a term ending June 30, 2019. Seconded by Chairman Archibald. Motion Passed.

The Board met with Elizabeth Bartlett on her application for the Council on Aging.

Selectman Anderson made a motion to appoint Elizabeth Bartlett as a member on Council on Aging with a term ending June 30, 2020. Seconded by Selectman Kemper. Motion Passed.

II. Cont. Lodging House License Application: Colin M. Hodgson, 15 Norino Drive

Selectman Kemper motioned that the decision letter be in the meeting minutes as the reasons why the Board voted “no” on the application. Seconded by Selectman Anderson. Motion Passed.

The following is the letter of Decision of the Board of Selectmen on The Application of Colin Hodgson for a Lodging House License for the Property Located at 15 Norino Drive in italics:

On July 11, 2017, Colin Hodgson (hereinafter referred to as the “Applicant”) applied to the Board of Selectmen of the Town of West Newbury for a Lodging House License for the property located at 15 Norino Drive, West Newbury, MA. The Board of Selectmen is the licensing authority of the Town and pursuant to the provisions of MGL c.44 section 22 et seq. have the authority to enact regulations and issue licenses concerning lodging houses. In

accordance with Massachusetts General Laws and the regulations adopted by the Board of Selectmen, all properties having short term rentals to four or more persons must obtain a lodging house license.

In accordance with the records of the Assessors of the Town of West Newbury, the property at 15 Norino Drive consists of 2.23 acres of land and the building is classified as a two family with twelve rooms, six baths and six bedrooms. The owner is currently utilizing one of the units as an Airbnb renting out to one to three individuals. The Applicant has requested that 6000 square feet of the 10,000 square foot house be rented out to a total of sixteen lodgers in five bedrooms. The Applicant has submitted a Lodging House License Application and in accordance with the Lodging House Regulations promulgated by the Board of Selectmen; and had the Property reviewed by the Board of Health, Fire Department, Police Department and Building Inspector. The Finance Department stated that property and excise taxes have been paid.

The Applicant had previously rented the Property to numerous lodgers on a short term basis without the benefit of a license and in 2016 the Selectmen granted a temporary license for a limited period of time until the end of October 2016. The Selectmen have received numerous complaints from neighbors regarding lodgers renting the Property including noisy parties, excess automobiles parking on the street and other disturbances to a residential neighborhood. This summer the town received complaints about individuals renting the property and conducting parties while no lodging license was in place. The applicant responded to these complaints by admitting that parties were held on the Property but they were for friends and families. Evidence on the rental site "Home Away" indicated that at least nine individuals rented the Property in May at a time when no license was in place. Numerous other reviews set forth on such sites as Airbnb, VRBO and HomeAway indicate that the Property was being marketed and rented as a "Party House." Some reviews were as follows:

"... We were a group of 9 and this was the perfect place to stay to accommodate the many people." May 10, 2017

"...The house was a GREAT space for our group of 15 to have a fun weekend together." September 2016

*"Colin has a beautiful house that was great for our large group of friends."
August 2016*

"We celebrated my mother in law's 90th birthday at Colin and Reini's house and had a great experience. The house has so much space that it accommodated our group easily." August 2016

"Our family reunion at the Villa was amazing, the size let us have pretty much the whole extended family staying there..." July 2016

“We decided to have a wedding celebration at Reini and Colin’s place. They were very helpful with suggestions on local caterers, restaurants and bakeries. ...They even met with us and the caterer to walk around the house prior to our party.”
April 2016

The Property is located in the Residence B Zoning District of the Town of West Newbury. Only residential uses are permitted by right in this zone. A “Bed and Breakfast” is permitted in this zone, (West Newbury Zoning Bylaws Section 5.A.2.d.) A Bed and Breakfast is defined in Section 2 as “A house, or portion thereof, where up to four lodging rooms, with meals, are provided providing that the maximum duration of any tenant shall not exceed 15 days.” This Bylaw was enacted before the commencement of internet sites such as Airbnb and applies to the traditional understanding of what constitutes a bed and breakfast. Usually referring to the renting of single rooms to individual guests who would have only their room and en suite for their exclusive use and share some common rooms and be served a single meal. The Applicant proposes to rent the entire house to a one renter who would share spaces with an undetermined number of other guests, would cook their own meals, use the entire house and grounds and would potentially invite other individuals for parties on site. Recently, a similar rental arrangement in Lynnfield suffered a shooting and death. The Board finds this type of use to present problems different in kind from the traditional bed and breakfast business plan and therefore not consistent with the purpose and intent of uses in the residential zone.

The Board, also, notes that the Property like all properties in West Newbury is served by an on-site septic system. In accordance with records from the Board of Health, the septic system is designed for six bedrooms which assumes that there will be no more than twelve persons living in the Property. The Applicant proposes to rent the large portion of the Property to up to sixteen individuals and also have occupants, either renters or themselves, use the remaining portion of the Property. Additionally, as past history indicates, this type of usage encourages additional visitors to the Property creating a potential for a public health hazard especially if the large volume of usage is concentrated on a single weekend. The Property is, also, located at the end of a cul de sac, which by definition provides only one means of egress for public safety vehicles. In the event that there is a blockage on the road, there would be no way for public safety vehicles to get to the property. Norino Drive is over 2000 feet long which exceeds the West Newbury Planning Board regulations for the limit of a dead end road by over 100%. This potential problem would be exacerbated by the use of the Property for large groups of people. The Board also finds that this is exclusively a residential area comprised of single family usage. The use of the Property for what amounts to be a commercial activity is incompatible with the area and makes the Property unsuitable for this type of license.

The applicant has also showed a reluctance to comply with the requirements for holding a lodging house license. When told he had to maintain a register of all guests, he indicated that he only wanted to retain the information of the single individual renting the Property despite the fact that such a register was a statutory requirement. Additionally, he admitted to the Board that he had already taken bookings for rentals prior to his receiving this license. The Board finds that such past practices are indications of future noncompliance, requiring the denial of the license.

Based upon the above, the Board of Selectmen vote to deny the Application of Colin Hodgson for a Lodging House License for property at 15 Norino Drive, West Newbury, MA 01985

The Board of Selectmen signed the letter.

III. One-day liquor license

Michelle Card previously requested a one-day liquor license for the spaghetti dinner the night before the Apple Harvest Run to serve beer and wine.

Selectman Anderson moved to approve a one-day liquor license to Michelle Card on September 30, 2017. Seconded by Chairman Archibald. Motion Passed.

IV. DPW: Surplus Mower

Chairman Archibald motioned to declare the Landpride 11ft mower “surplus” and that Finance Director can dispose of it online on auction. Seconded by Selectman Anderson. Motion Passed.

V. Police Chief: Reaffirm traffic rules

Chief Reed discussed with the Board the need to reaffirm the traffic rules in town and has spoken with Mike McCarron on creating a manual of all the rules that the town makes and document them. The following parking rules have been in place for some time but it is unclear when it was done and if it was done formally by the Board of Selectmen.

Farm Lane Parking: There will be only 2-hour parking from 7:00 am - 3:00 pm, Monday through Friday on the westerly side of the road (school side). The 2-hour parking will begin from the intersection of Farm Lane and Route 113 to the end of Farm Lane to the first driveway. On the easterly side of Farm Lane there will be no parking which will begin from the intersection of Farm Lane and Route 113 to the cul-de-sac of the street where there are four spaces for the conservation easement on the easterly side of the street.

Chestnut Street: There is to be no parking on the street.

Chestnut Hill Street: There will be no parking on the street.

Bachelor Street: There will be no parking on Bachelor Street on the easterly side of the road starting at the rear exit of the Safety Building south to 25 Bachelor Street.

Main Street at the Post Office:

There will be no parking from: starting 11 feet east of the entrance of the Post Office to 45 feet west of the same entrance.

Main Street (south side) from entrance of Winfield Crossing east for 1500 feet. (State law?)

Church Street @ Route 113: There will be no parking on the westerly side of Church Street from the corner of the intersection to the side driveway entrance on Church Street.

Moulton: There will be no parking from the driveway of 97 Moulton Street to 500 feet in a north westerly direction.

Bailey Lane: There is no parking on the easterly side (Training Field side) of the street from the intersection of Route 113 to 170 feet down Bailey's Lane in a northerly direction.

Whetstone Street: No parking on the easterly side of the road from the intersection of Sullivan's Court south for 100 feet

Sullivan's Court: No parking on either side of the street at the intersection of Whetstone and Sullivan's Court in a westerly direction for 90 feet (both sides).

Harrison Ave: Right turn only at the intersection of Route 113 and Harrison Ave.

River Road: No parking on the north side of the street across from number 25 for 100 feet in each direction

Fire hydrant(s): There is to be no parking 10 feet to either side of any hydrant.

Crosswalks: There is to be no parking 5 feet to either side of any marked crosswalk. (State Law or Town Rule?)

The Board requested that the sign be removed from the River Road and Moulton St as it is unnecessary. Reed stated that an Eagle Scout will paint the 10ft curb red near the fire hydrant so it's known that no parking. Reed stated that a new sign must be placed at the beginning of the yellow line at the post office. The Board agreed to have a future discussion on the other parking traffic rules.

Selectman Kemper made a motion that Chief Reed work with Gary Bill on placing the necessary parking signage at Chestnut Hill Street, Chestnut St. and Farm House Lane before the beginning of school. Seconded by Selectman Anderson. Motion Passed.

VI. Drakes Landing/Carr Post

Chairman Archibald stated that there is a new delineation of possible parking for the Carr Post. The Board reviewed the new proposed plan specifications. Mike McCarron stated that a site plan review cannot be denied but can be reasonably regulated.

Melissa Robbins, Attorney for Deschenes and Farrell representing the applicant, stated that the new design proposes 12 parking spaces along the roadway. She stated that this will remove the parking spaces away from the abutters and gives an easement to the rear for future use. She stated that it is a low travel way, and that she will receive input from the Police and Fire Chief regarding the proposed parking spaces. Hall stated that a traffic consultant and engineer confirmed that the new parking conforms to all the necessary regulations. Hall stated that they took the 18ft road and widen it to 20ft, and that in front of the parking area the road will go from 20ft to 22ft. He feels that this meets the requests from the Planning Board, Conservation Commission, Selectmen, and the abutter. He further explained that if there cannot be an agreement, then there is another plan that will remove the parking entirely and there will be no need for the curb cut.

The Board agreed that if the Police Chief, Fire Chief, and Gary Bill concur with the proposed plan, they will agree. The Board members will discuss this plan with the appropriate personnel and discuss the outcome with the applicant on September 5, 2017 at 7:00pm.

VII. Cont. review of sign ordinance

The Board had previously discussed on how they will handle temporary signs on town land and rights of way. They would like to invite businesses such as Farms, and Real Estate to a meeting on September 18, 2017 to discuss placement of signs. The Board decided to send out a letter to the businesses inviting them to the meeting.

Judith Gregg questioned if the library would be able to post banners, such as book sales on the library property. Selectmen Kemper stated that library itself has the authority to put up signs on their property as long as it complies with the Town Sign Bylaw.

VIII. Marijuana Zoning and Bylaws

Previously the Board discussed placing an article for a temporary moratorium allowing time to engage in planning.

Selectman Anderson moved to approve a warrant article for a temporary moratorium on marijuana as described in the proposed zoning amendment. Seconded by Chairman Archibald. Motion Passed.

The next step is that the Planning Board will have to vote to have a public hearing for a change to the Zoning Bylaw.

Section 4.E of the temporary moratorium states the following:

In order to allow sufficient time to engage in a planning process to address the effects of marijuana establishments both structures and uses on the Town, the Town hereby adopts a temporary moratorium on the use of land or structures for the operation of any marijuana establishment, as defined in G.L. c. 94G Sec. 1, including without limitation, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retail or any other type of licensed marijuana related business. Such marijuana establishments are prohibited in all zoning districts of the Town during this moratorium. This prohibition shall not apply to the sale, distribution or cultivation of marijuana for medical purposes licensed under Chapter 369 of the Acts of 2012. This moratorium shall be in effect through December 31, 2018. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of marijuana establishments in the Town, to consider the current legislative changes to G.L. c. 94G Sec. 1 et seq and to allow the Town time to consider a referendum on the allowance of marijuana establishments in the Town.

IX. Warrants for the Special Town Meeting, October 23, 2017

Chairman Archibald stated that they received an article request from the library for a library materials revolving funds. McCarron further explained that Susan Babb is trying to create a revolving fund to place money that they get from fines for lost books, and to use the collected funds to replace the lost books and materials.

Selectman Anderson moved to approve the warrant article request from the library for the library revolving fund. Seconded by Selectman Kemper. Motion Passed.

Chairman Archibald stated that there were a prior year's expenditures of \$1,471.78 related to town ballot printing.

Selectman Anderson moved to approve the Special Article Request in the amount of \$1,471.78 from the town clerk to pay the prior year's bills. Seconded by Chairman Archibald. Motion Passed.

Chairman Archibald stated that the Selectmen would like to amend the Zoning Bylaw Section 10 Groundwater Protection Overlay District to incorporate two areas that were not included before. The areas are 31 Dole Place, and the existing wellfield incorporating an additional area next to the well field that the Brothers donated access too. Selectman Anderson stated that the article protects Zone 1, 2 and 3 as defined by the Department of Environmental Protection.

Selectman Anderson moved to approve warrant article to amend the Zoning Bylaw, Section 10 Groundwater Protection Overlay District. Seconded by Selectman Kemper. Mike McCarron stated that he and Mary Winglass will retrieve the materials such as maps that will be needed for the article. **Motion passed.**

Chairman Archibald stated that there is an article to authorize the expenditure of free cash to fund the approximate 6-month salary and benefits for the new position of Town Manager totaling 150,000. Selectman Anderson stated that includes wages for 6-months, Medicare, health insurance and unemployment cost.

Selectman Anderson made a motion to approve warrant article funding for a Town Manager salary, benefits, and expenses in the amount of \$150,000. Second by Selectman Kemper. Motion Passed. Selectman Anderson stated that it is funded from free cash because the finance director salary and benefits are taxed. To avoid double taxing it, starting the next Fiscal Year, the Finance Director will be removed and they will start taxing the amount for the Town Manager.

Anderson requested to place a warrant article to reduce the tax rate funded from free cash for if chosen not to continue this practice then there will be a tax increase of \$144,300. The Board discussed that in the future to wean from this article.

Selectman Anderson made a motion to approve placing a warrant article of \$144,300 to transfer funds from free cash to reduce the current year tax rate. Seconded by Chairman Archibald. Motion Passed.

X. Appointments

Selectman Anderson stated that he called Doug Sherwood and Cindy Sauter regarding other openings on Committees.

Selectman Anderson made a motion to appoint Brad Buschur, Marlene Switzer as an alternate, and Dawne Fusco to the Open Space Committee through a term ending June 30, 2020. Seconded by Selectman Kemper. Motion Passed.

Selectman Anderson made a motion to appoint Stephen Greason as a member of the River Access Committee through a term ending June 30, 2018. Seconded by Chairman Archibald. Motion Passed.

Selectman Anderson requested that the River Access Committee be invited to a following meeting.

Selectman Anderson made a motion to appoint Elise Henrichs, Registers of Voters through a term ending June 30, 2020. Seconded by Selectman Kemper. Motion Passed.

Selectman Anderson made a motion to appoint Doug Sherwood to the Capital Improvements Committee through a term ending June 30, 2019. Seconded by Selectman Kemper. Motion passed.

Selectman Anderson made a motion to appoint Doug Sherwood to the Energy Advisory Committee through a term ending June 30, 2018. Seconded by Chairman Archibald. Motion Passed.

Selectman Anderson made a motion to appoint Cindy Sauter to the Bicentennial Committee through a term ending June 30, 2018. Seconded by Selectman Kemper. Motion Passed.

Selectman Anderson made a motion to appoint Catherine Conrad to the Personnel Committee through a term ending June 30, 2018. Seconded by Selectman Kemper. Motion Passed.

Selectman Anderson made a motion to appoint Barbara Warne to the Council on Aging through a term ending June 30, 2018. Seconded by Chairman Archibald. Motion Passed.

XI. Selectmen's Meeting minutes dated May 15, 2017 and May 30, 2017

Minutes will be reviewed at the following meeting.

XII. Payroll and Invoice Warrants

Selectmen Kemper motioned to approve the invoice warrants. Seconded by Selectman Anderson. Motion Passed.

Chairman Archibald made a motion to accept the payroll warrants. Seconded by Selectman Anderson. Motion Passed with Selectman Kemper abstaining.

XIII. Placing items for future agendas

Selectman Anderson requested to have a public hearing regarding the personal policy on September 5, 2017. Selectman Kemper requested to create an organizational chart to see if there are any necessary structural changes on September 18, 2017. The Board requested that the Bicentennial Committee come to the September 5, 2017 meeting and if they cannot attend then on September 18, 2017.

Selectman Kemper motioned to adjourn at 9:07pm. Seconded by Selectman Anderson. Motion Passed.

Respectfully Submitted,

Lori Dawidowicz
Recording Secretary