

A Meeting of the Board of Selectmen was held on Tuesday, October 2, 2012 beginning at 7:00 p.m. in the Main Meeting Room of the Town Hall. The following members were present.

Eric Kraus, Chairman
Michael Berry, Vice Chairman
Mark Gallivan, Clerk
Christopher Timson
Nancy Mackenzie

Also, present:
James Johnson, Asst. Town Administrator
Cindy Berube, Executive Assistant

Mr. Kraus called the meeting to order at 7:00 p.m. followed by the Pledge of Allegiance.

Announcements and Proclamations

Sponsored Agenda Items

7:00 p.m. Daniel Barrett, Trails Committee

Mr. Barrett is seeking membership to the Walpole Trails Committee. He grew up in Walpole near the Town Forest and would like to see repair to the white bridge by installing rails. He can help with cleaning out the forest. He donated a bobcat at A. Farm doing the trails up there. He uses the forest a lot and sees it needs cleaning out, as he is concerned with safety. He has many ties with machinery. Alan Willis is donating all the lumber from his lumber mill.

MOTION moved by Mr. Berry to appoint Dan Barrett to Walpole Trails Committee, seconded by Mrs. Mackenzie, VOTED 5-0-0

7:05 p.m. Bill Abbott, Capital Budget Articles

Mr. Abbott reported the recommendations of the Capital Budget Committee for Articles 2,7,8,9 and 12. On Article #2, the reason for the supplemental appropriation, run off the top of the tank, concerned about the design, the Planning Board approved the site plan. The residents seemed satisfied with the action taken. The residents had been concerned with flooding and this capital request came from the Superintendent of Sewer and Water. The Sewer and Water Commission voted not to approve the expenditure from their budget.

With respect to Article #7, \$15,000 from free cash that is for the housing plan, it contains demographic info. Capital Budget vote in favor as the town has applied for a grant to cover the costs.

Article #8 consists of two requests from school Department as the OPR PA system installed in 1993 has had problems from day 1, the principal gave a presentation on this request. The vendor discontinued the model and no parts available. Not having that system, it is very unreliable.

Special Ed vehicle, currently town uses a private vendor. With this van and hiring a part time driver, they can save money. This is only part of the story, the School Dept. received another van for reimbursement of another van and two used vans. Picking and choosing the routes where they can save the most money and use the private van for others.

He discussed Article #8 that deals with roads that need paving or repaving. They gave us a priority list. They will go as far as they can. Mrs. Mackenzie questioned why the DPW town yard was highest on the list. Mr. Johnson explained the parking lot improvements include, the DPW yard, Boyden School and the DPW water yard. Mr. Timson would like to know they have accomplished the goal with the roadways before they do the DPW yard. It is his recollection that the priority is to get the residents streets up to a certain level before doing this. It was explained the town is continuing the road program. The parking lot paving is from free cash. Mr. Timson needs to hear more in terms of where they are with the paving plan before supporting this request.

Article #12 will fund a dredge study and soil analysis for the Ponds Committee. The pond is in dreadful shape. The pond was constructed in 1920 and the depth was 10 feet, the current depth is 2 feet. One of the concerns we have is what is going to cost to do the entire study. You need to have the study before you get any grants. The other portion of this request is hazardous tree removal. There are eighteen trees, which require the use of heavy equipment.

MOTION moved by Mr. Berry to recommend Favorable Action on Article #2, seconded by Mrs. Mackenzie, VOTED 5-0-0

MOTION moved by Mr. Berry to recommend Favorable Action on Article #8, seconded by Mrs. Mackenzie, VOTED 5-0-0

MOTION moved by Mr. Berry to recommend Favorable Action on Article #12, seconded by Mrs. Mackenzie, VOTED 5-0-0

MOTION moved by Mr. Berry to recommend Favorable Action on Article #3, seconded by Mrs. Mackenzie, VOTED 5-0-0

MOTION moved by Mr. Berry to recommend Favorable Action on Article #13, seconded by Mrs. Mackenzie, VOTED 5-0-0

MOTION moved by Mr. Berry to recommend Favorable Action on Article #6, seconded by Mrs. Mackenzie, VOTED 5-0-0

MOTION moved by Mr. Berry to reconsider articles Article #15 and #16, seconded by Mr. Timson, VOTED 5-0-0

MB to move reconsideration on article 15 and 16, CT 5-0-0

MOTION moved by Mr. Berry to recommend No Action on Articles #15 and #16, seconded by Mrs. Mackenzie, VOTED 5-0-0

10-9 M. Good, OPEB Valuation Bids

Mr. Good spoke to the Board regarding the bids for the bi-annual OPEB actuarial valuation. He received two responses. Currently the town should be contributing 2.3 million dollars a year. Mr. Berry would be interested in knowing what other communities are doing to meet these contributions. Wellesley past an override to pay for OPEB. He is not award of many other towns doing other than what we are doing. Mark Gallivan suggested once the study is complete that would be a good time to know what others are doing and where Walpole stands.

MOTION moved by Mr. Berry to award the bid to Buck Consultants, seconded by Mrs. Mackenzie, VOTED 5-0-0

7:30 p.m. Hearing for Chili's Grill and Bar

MOTION moved by Mr. Timson to open the public hearing for Chili's Grill & Bar for a violation of the terms of their liquor license, seconded by Mrs. Mackenzie, VOTED 5-0-0

Chairman Kraus read the following into the record. This is a hearing for Chili's Grill & Bar for a violation of the terms of their liquor license.

On August 30, 2012, an employee for Chili's sold alcoholic beverages to a person under the age of 21 years during a liquor license compliance check by the Walpole Police Alcohol Compliance Sting Operation Team. The service of alcohol to an underage person constitutes a violation of G.L. c. 138, §34 -sale of alcohol to a minor, Code of the Massachusetts Regulations 204 section 2.05(2)- permitting illegalities or disorders on the licensed premises, and improper management.

As a result of this violations, the Licensee, through their Manager of Record have agreed to a two day suspension of their liquor license. The Licensee shall determine the days of suspension. The suspension need not be served on consecutive days. The Licensees shall notify the Chief of Police within 7 days as to the exact dates of suspension. The suspension shall be served within 30 days from the date of this hearing and shall not include any days that the establishments are closed. The licensees agree not appeal this decision.

Casey Bourret, Manger identified himself and informed the Board they agreed to the two day suspension for October 14 and October 15.

Mr. Kraus informed him that as a business and one that sells alcohol we do not want to see you here again, when we issue a license to anyone in town we do so with the expectation they will adhere with the law.

Mr. Gallivan stated as a representative we look to you to enforce liquor laws and take that seriously, the town is keeping an eye on you, we are glad you are here and we want to keep you here. We want to be sure these laws are enforced. Glad Chili's is in town, hope not to have to see them again.

Mr. Bourret informed the Board the employee that did the act has been terminated and they have taken steps to re-train staff.

Mr. Timson noted the last time the town had a compliance checks there were a lot more, none of them are back this time, I trust it will be the same for Chili's. We have done some great things with coalition against drugs and alcohol and we look to partner with establishments in town, to have a self-policing set up. It would say a lot to your staff if you would contribute to these compliance checks. Gives your staff the right frame of mind. We love to see something like that happen in town.

Mr. Bourret informed the Board they are donating a check in the amount of \$1,000 for the Coalition.

Deputy Chief Carmichael, the only thing I can add to it, last year we had seven violations and this year only one. The goal is partly education; we did well and completed the goal and move forward from here.

MOTION moved by Mrs. Mackenzie to close the Public hearing, seconded by Mr. Gallivan, VOTED 5-0-0

MOTION moved by Mrs. Mackenzie to accept the agreement as outlined during the hearing with regards to the Liquor License, seconded by Mr. Gallivan, VOTED 5-0-0

OPEN FORUM

Joe Moraski Precinct 8, has attended some of the coalition meetings and it has become number one in his heart. He does not know if he agrees with just a two-day violation and they should educate their staff and agree to uphold the regulations. Run a series of bylaw relative to selling alcohol to minors. He would like to see establishments notified with Police when they are presented with an ID of a minor who is trying to purchase alcohol. He would like to have seen Chili's required to attend some of the Coalition meetings. They are part of the community and part of the solution to solving this problem. He went to Chili's at 5 p.m. and I did not see sign that said we do not sell alcohol to minors. If we are going to do it with Tobacco, we should do it with Alcohol.

He met with Robin and showed her bylaws written by another town, and he would like her to introduce them to the coalition. Introduce a bylaw, it is similar to the tobacco law that we have.

Mr. Kraus explained the \$1,000 was not part of the fine, it was a contribution. Why the two-day suspension, The ABCC has advised the Board they must be consistent. For the first violation we wanted to be fair. .

10-10 Joint Salt Bid Award

MOTION moved by Mr. Berry to award bid contract 2013-10 joint salt bid with Medfield and various other towns to Eastern Minerals, Inc., and to American Rock Salt, Co. as the back up supplier, seconded by Mr. Gallivan, VOTED 5-0-0

10-11 Footlighters, Sunday Entertainment

MOTION moved by Mr. Berry to approve the Sunday Entertainment licenses for Walpole Footlighters for October 28 and November 4, seconded by Mr. Timson, VOTED 5-0-0

10-12 Blessed Sacrament, One day Beer and Wine

MOTION moved by Mr. Berry to approve the one day Beer and Wine license for Blessed Sacrament, seconded by Mr. Timson, VOTED 5-0-0

10-13 One day, Knights of Columbus

MOTION moved by Mr. Berry to approve the one day all alcoholic license for Knights of Columbus, 1319 corp. for Oct 14, seconded by Mr. Gallivan, VOTED 5-0-0

10-14 One day, Knights of Columbus

MOTION moved by Mr. Berry to approve the one day all alcoholic license for Knights of Columbus, 1319 corp. for Oct 20, seconded by Mr. Gallivan, VOTED 5-0-0

10-17 TO 10-21 Gift Acceptances

MOTION moved by Mr. Berry to accept the gifts for

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|---|-----------------|
| Fire Gift Account, Wal-Mart | \$2,000 (10-17) |
| Board of Health, Gift account, Wal-Mart | \$1,000 (10-18) |
| Police Safety Program, Hollingsworth and Vose | \$1,000 (10-19) |
| Fire Gift Account, Hollingsworth and Vose | \$1,000 (10-20) |
| Fire Gift Account, Michael & Jill Takacs | \$ 50 (10-21) |

With gratitude, seconded by Mr. Gallivan, VOTED 5-0-0

10-22 Addendum to license, Superfund

MOTION moved by Mrs. Mackenzie to authorize the Town Administrator to sign the addendum agreement between the Town of Walpole and Woodard and Curran Addendum for Woodard and Curran, seconded by Mr. Timson, VOTED 5-0-0

10-23 Election Warrant

MOTION moved by Mrs. Mackenzie to endorse the State Election Warrant for November 6, 2012 Election Warrant, seconded by Mr. Timson VOTED 5-0-0

British Beer Company , One day Malt and One day entertainment

The Board discussed this not being the first time they have requested to hold an outside event. They asked a letter be sent to them reminding them to seek permission to hold such event, earlier than they have.

One day Malt license

MOTION moved by Mr. Berry to approve the one day Malt license for British Beer Co. on October 6, 2012 subject to the beer tent in the parking lot being enclosed, secured area with an entrance where ID can be checked and only those of age allowed to enter. All beer sold must be consumed in the tent, seconded by Mr. Gallivan, VOTED 5-0-0

One day entertainment license

MOTION moved by Mr. Berry to approve the one-day entertainment license in the Parking lot of British Beer Co. on October 6, 2012 from 1 p.m. to 5 p.m. subject to the condition the music may not be heard at a distance beyond 100 yards, seconded by Mr. Gallivan, VOTED 5-0-0

10-6 Hearing, Transfer of Wine & Malt for Asian Deli Inc.

MOTION moved by Mrs. Mackenzie to open public hearing for the Transfer and alteration of premises for Asian Deli Inc., seconded by Mr. Gallivan, VOTED 5-0-0

MOTION moved by Mrs. Mackenzie to waive the reading of the notice, seconded by Mr. Gallivan, VOTED 5-0-0

Attorney Chris Coleman on behalf of the applicant. This is for transfer of the Wine and Malt license from Mandarin Cuisine to Asian Deli Inc. They want to introduce a sushi bar. Hours will remain the same. Yin Chen present is the Manager, she is TIP certified, US citizen.

MOTION moved by Mr. Berry to close the public hearing, seconded by Mr. Timson, VOTED 5-0-0

MOTION moved by Mr. Berry to approve the Transfer and Alteration of Premises for the Wine & Malt license from Mandarin Cuisine to Asian Deli Inc., 691 Main Street, seconded by Mr. Timson, VOTED 5-0-0

MOTION moved by Mr. Berry to approve of a Common Victualler's License for Asian Deli, Inc., seconded by Mr. Timson, VOTED 5-0-0

10-13 Remote Participation Adoption

Mr. Johnson reviewed the list of town who recently adopted this and those that did not support it. Mr. Timson had asked this be on the Agenda he would like to see the Board support it.

The Board had a lengthy discussion regarding the adoption of this. The Board wants to be sure the town has the technology to make it work. The only real burden is that votes must be taken by roll call. Mr. Gallivan, Mrs. Mackenzie agreed this is a benefit to them. They feel it is important Board members attend meetings, but this deals with a case when someone cannot be present but wishes to participate. This is for extreme cases. Board members have jobs that sometimes make it difficult to get home. You need a quorum present in order to use remote participation.

Mr. Berry opposes the adopting. He noted there are communities that spoke to the importance of a member being present when a vote is taken. When you look at what we have to do, we make decisions on appointments to police and fire. If we are making those decisions, he feels the member should be present. This is a slippery slope and potential to erode the public's view of the officials. If I am watching and I see two members joining in. People say showing up is important. We should be able to look at people in the eye, consider if we adopt this policy if applies for all Boards, with that being said, the right thing to do, is to solicit input from other Boards and Committees.

Mr. Kraus disagreed; he does not feel that a member's point of view is diminished by not sitting in this chair. While he comes lively debate, he does not think he is hindered at all if he can't be here. We all have full time jobs to go there; the people who elected me want me to vote. Just because you are not physically here, your point of view is zero. He believes we all have the best interest of the town at heart. The five members of the Board would not abuse us; this would not be everyday but the exception.

MOTION moved by Mr. Timson to authorize the use of remote participation as outlined in 940 CMR 29.10 seconded by Mrs. Mackenzie, VOTED

Discussion: Mr. Berry stated that he knew he would be the sole member disagreeing. He feels it is a bold move without input from other Town Boards. He feels they could potentially loose the trust of those citizens that elected them.

Mr. Timson sees this as permitting participation for those that would otherwise not be able to participate. If someone is abusing it, they will get voted out. If someone is abusing this, the other members of the Board will let them know. I do not think it will get abused. I think it will make members feel better to participate. There are going to be times that you can not be there. There will always be of the board. I feel strongly this will be a benefit.

Mrs. Mackenzie recalls in her thirteen years of service, that votes are taken when certain people cannot attend

Mr. Berry stated he does not get paid, he comes here because we care about the town. He does not think we should make it easier for someone to participate if you are not here.

Mr. Kraus stated this is not about accommodations. I have missed two meetings in two years. He wants his opinion to count. This will allow you to listen, discuss and debate on the issue and vote.

VOTED 4-1-0 (Mr. Berry opposed)

8:15 p.m. Lincoln Road/Granite Street, Sight Distance

Mr. Johnson explained this is about brush that needs to be removed on town property at the corner of Lincoln Road and Granite Street. Mr. Carey, 133 Lincoln Road was present and stated he does not have a lot to say. Someone came to their door and said we want to remove the hedges. He could not understand why he would not get a notice. He felt it was rude, inconsiderate, and not respectful of the town officials, why someone would think we would deserve that. The people that lived in the home before us planted them. He feels they are a safety factor, he thought he owned them. It was presented that we placed these hedges on town property. In the future, I would ask that someone be considerate of the homeowner, do not come up and talk to someone who has nothing to do with the property.

Mr. Kraus was not aware of that process. He noted the hedges are great. They are a significant traffic hazard. Mr. Carey stated in thirty years there have been no accidents. He wants to know why that intersection became so important. He is aware of other intersections in town that are a safety hazard.

Robert O'Brien- the issue of this intersection was a concern. Chris Musiak the safety officer was notified. Mr. Carey is concerned about the bushes being removed. The Shrubs are on Town land, the Town surveyed them. The sight distance required is 200'. Now that we have knowledge we believe we would be liable. It is a public safety issue. We have done this in the past, what we can do up there, we offered to plant new shrubs, move the shrubs.

Mr. O'Brien explained that he, the Police, and Bob LeBlanc went out and spoke to Mr. Carey. He was not receptive to the solution.

Mrs. Mackenzie talked about Scenic Roads. You are not being singled out, we have had major roadways. South Street, we have been trying to fix that S curve. Thirty years ago your hedges were planted but they have gotten to big and people can't see. Line of sight is importance. It does feel like it is happening just to you.

Mr. Timson explained when the town receives a complaint they investigate. He took a ride to the site and agrees there is an issue with the sight distance. Need to make the intersection safe.

The Board discussed the mitigation with Mr. Carey. The DPW had been authorized to plant shrubs behind the existing ones on Mr. Carey's property and the others would be removed from town property. Mr. Carey feels the shrubs would be lower than what he would like. He is concerned for safety and felt the existing hedges could prevent someone from hitting his home during an accident. He would like to see a stonewall. The Board noted it would be far to costly. It was suggested that Mr. Carey and Mr. O'Brien meet and have a discussion on options. Noting the town cannot spend the type of money he would like for a stone wall. Mrs. Mackenzie will meet with them on site.

MOTION moved by Mr. Timson to direct the DPW to remove all sight distance impairments at the corner of the Lincoln Road and Granite Street and to allow the DPW Director and Town Administrator to find a reasonable and acceptable method of mitigation and make sure that all safety measures are observed, seconded by Mrs. Mackenzie, VOTED 5-0-0

Three Brothers Transportation

Livery license, questions about businesses being run out there. They are asking to drive through town. The Building Dept has no problem, allowing one vehicle at their home. The Board members were not happy with the paperwork but they are not licensing them. The board is being asked to grant them permission to drive thru the Town. Mrs. Mackenzie agrees with the letter, as long as the person operating the vehicles is in compliance with Mass RMV requirements, and that the private livery requirements and any other things happening adheres to all of our zoning requirements and general bylaws.

We have to say, they need to be sure along the way they know our zoning. So as they comply with all statutes, codes, and Bylaws.

Mr. Timson suggested the Board send the following letter to Mass Port.

The Town of Walpole does not have private Limousine/Livery requirements and has no objection to Three Brothers Transportation Inc. driving their one vehicle within and through the town boundaries so long as they comply with all applicable statutes, codes, Zoning Bylaws, Town Bylaws and RMV rules and regulations.

MOTION moved by Mrs. Mackenzie to send the letter as dictated by Mr. Timson, seconded by Mr. Gallivan MG 5-0-0

MINUTES

MOTION moved by Mr. Berry to approve but not release the Executive session minutes of August 7, 2012, seconded by Mr. Gallivan, VOTED 5-0-0

MOTION moved by Mr. Berry to approve the Minutes of August 21, 2012, seconded by Mr. Gallivan, VOTED 5-0-0

MOTION moved by Mr. Berry to approve but not release the Executive session minutes of August 21, 2012, seconded by Mr. Gallivan VOTED 5-0-0

MOTION moved by Mr. Berry to approve the minutes of September 4, 2012, seconded by Mr. Gallivan VOTED 4-0-1 (Mr. Kraus abstained)

Entering Executive Session

Chairman Eric Kraus read the following into the record.

I declare that:

- Under G.L. C.30A, §21 (b)(3) and (4), the purpose of the executive session will be to discuss litigation strategy regarding litigation known as;
Viano. Trustee v. Diane Beattv and Walpole Planning Board. Norfolk Superior Court, C.A. No. NOCV2012-01177; and
Allied Recycling Center, Inc. v. Delmar. et aL. and the Town of Walpole. Middlesex Superior Court C.A. No. MICV201-03591; and
Commonwealth of Massachusetts v. Allied Recycling Center. Inc.. etal. Suffolk Superior Court C.A. No. SUCV2010-00811; and
- A discussion of the litigation strategy in open session could compromise the purpose for the executive session; and
- The Board shall not return to open session at the conclusion of the executive session.

MOTION moved by Mr. Kraus that the Board of Selectmen go into executive session, under G.L. c.30A, §21(a)(3), regarding litigation concerning the Planning Board's site plan decision for land on Washington Street owned by Hollingsworth and Vose and the blocks located within and near Chestnut Street and concerning Allied Recycling Center, concerning land on Main Street, for the purposes and reasons declared by the Chairman, with the Board to return/not to return to open session, seconded by Mr. Berry, Voted by Roll Call : Mrs. Mackenzie-Aye, Mr. Berry-Aye, Mr. Gallivan-Aye, Mr. Timson-Aye and Mr. Kraus-Aye

The Board returned from executive session and adjourned at 10:10 p.m.