

Tuesday, February 5, 2019
Board of Selectmen's Meeting Minutes
Foxborough Town Hall
Andrew Gala Meeting Room
7:00pm

Members present: Chris Mitchell, Chair
Mark Elfman, Vice Chair
Leah Gibson, Clerk
James DeVellis
David Feldman

Others present: William Keegan, Jr., Town Manager
Michael Johns, Assistant Town Manager
Amanda Smith, Community Information Specialist

Minutes generated by Amanda Smith

Chairman Mitchell called the meeting to order at 7:01 p.m. and read the agenda into the record.

1. Citizen's Input

No one present for citizen's input

2. Public Hearing - Waxy O'Connor's

L. Gibson read the public hearing notice into the public record.

Attorney Frank Spillane and Paul McKenna, one of the owners of the establishment, came before the Board. Attorney Spillane recalled for the Board the closure of the business following a Health Department order to close on December 27, 2018 and on approximately January 6, 2019, Waxy's decided to close its doors and seek a buyer to replace them at the establishment. Attorney Spillane said his client is requesting six months to find a new business to take over the location. C. Mitchell asked about the status of the liquor on site; P. McKenna said the inventory is on site and is locked/secured. D. Feldman asked about the outstanding charges owed by Waxy's; Attorney Spillane said they will address the charges after they obtain a list of charges from Town Administration. B. Keegan said he was under the impression that all alcohol should be removed from the premises if it is no longer in business; Attorney Spillane said they would address that. J. DeVellis asked how payment will be made to address the outstanding charges; Attorney Spillane said they will review the list with the accountant and P. McKenna said they did not intend to suspend business so they will review with their accountant. Attorney Spillane said any transfer of the license will require all outstanding bills be paid. C. Mitchell asked how far along they are in finding a new business; Attorney Spillane said there is a meeting scheduled for Thursday of this week with a prospective business and will continue with negotiations; want to move forward with finding a new entity as soon as possible. B. Keegan clarified for the Board the recommendation of Town Counsel and of the ABCC to suspend cancellation of the license to allow them six months to find a suitable business replacement to transfer the license. B. Keegan recommended the Board revisit this in three months to review the status of the business and license transfer. D. Feldman asked if the license is cancelled would it go back to the Town; B. Keegan confirmed and stated that two licenses cannot be issued to the same premises concurrently. C. Mitchell asked if Waxy's could reopen their business in this six month period; B. Keegan confirmed that as a possibility during this six month period. L. Gibson asked about removal of the alcohol and how quickly it should be completed. P. McKenna said removal of the alcohol from the site requires a transport license from the ABCC so immediately following obtaining that license they will remove all of the alcohol. J. DeVellis asked if anyone from the business was present at the Board of Health meeting to discuss their order to close on December 27, 2018; P. McKenna said no one attended as they were working internally to determine

what they were going to do. J. DeVellis said he read the social media posts and saw that Waxy's blamed the Town; he said he has not yet seen a good faith effort to address this closure and would request a shorter period or to pull the license back and reissue if/when a new tenant comes into the space. B. Keegan said the ABCC and Town Counsel as dictated through case law, will afford every license holder a six month period following the finding of evidence in public session, to find another business to transfer the license. M. Elfman recommended to start the six month period tonight if it is likely to be granted by the ABCC upon appeal by the applicant. J. DeVellis asked to add a stipulation for the license holder to pay dues owed to the Town within 30 days. M. Elfman suggested making a second stipulation that alcohol be removed from the location within 30 days.

Eric Arvedon of the Board of Health (BOH) said the BOH suspended the food service license and held a meeting two weeks ago. E. Arvedon said the applicant did not attend the scheduled meeting and had applied the minimum standards at the time of the inspection they ultimately failed. E. Arvedon said they have revoked their 2019 food service license and have a list for them to address prior to applying to reissue the license and have not yet heard back from the applicant. P. McKenna clarified his emails send to the Board of Health; E. Arvedon presented to the Board that the BOH will not reissue the food service license until Waxy's has taken the steps outlined to obtain their license. P. McKenna reiterated the business was not anticipating a closure on December 27, 2018 and have been using the four weeks to reassess and work with ownership and corporate partners to determine a plan to close or reopen.

No additional public comment.

Motion made to close the public hearing made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion Carries 5-0-0

There is sufficient credible evidence that there has been a cessation of the businesses at the licensed premises, known as Waxy O'Connor's. While the Board could act to cancel the license based in the evidence presented, the Board will suspend such action for up to six months to afford the licensee the ability to find a suitable replacement for the business. The Board will review the license at reasonable periods during the six month period to determine if a good faith effort is being made to replace the business. If during this period the Board is not satisfied that a good faith effort is being made by the licensee, the Board may reconsider their position and proceed with a hearing to cancel the license. In addition, the back payments owed to the Town will be made within thirty days and the removal of liquor from the premises will happen as soon as possible with action starting as early as this week to get the license to transport liquor from the premises made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion Carries 5-0-0

3. BL Restaurant Operations, LLC. d/b/a Bar Louie Tavern and Grill

William Cochrane who came before the Board to request a change of officers at the corporate level.

Motion to Approve Change of Officers made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion Carries 5-0-0

4. Recreation Dept./Board of Recreation - Branding Discussion

Deb Giardino, Renee Tocci and Heidi Stapleton came before the Board to discuss their plan to brand the Recreation Department and their intentions with this brand. D. Giardino thanked the Board and thanked the members of the Recreation Board in attendance at the meeting tonight. D. Giardino explained the design of the logo and the message that every open space is the Town and community's "big backyard". D. Giardino said this is the first part of their roll-out with their brand; next step is updating social media and other communications tomorrow. D. Giardino said they are very proud of the work done on all of these properties by the Recreation Department and by the DPW and this logo and brand speaks to the spirit of the department and committee. R. Tocci presented the Board with t-shirts with the new logo and slogan. D. Giardino said they have been researching this for over a year. D. Feldman said this is a great idea but is asking why now. D. Giardino said she attended a conference where it was presented and brought it back to the team who all embraced it. M. Elfman said he finds it fascinating and thinks it is a great idea. L. Gibson said being visually identifiable will only continue to help them with all of their programs. J. DeVellis asked about the funding; D. Giardino said all of this is done under revolving fund, no additional funding needed. L. Gibson echoed the idea of keeping in mind cross-branding. J. DeVellis said it is nice to see such a strong Board of Recreation and asked about the status of the Booth Playground improvements in local media this week. D. Giardino said they are planning to present to CIP soon and that the upgrades are a need, not a want for that playground.

5. Hackney License Application - Genel Vilijean, Veterans Taxi to expire 2/5/21

Genel Vilijean came before the Board for his application for a new hackney license. G. Vilijean introduced himself to the Board. J. DeVellis asked about review of the hackney licenses and a freeze on these licenses in the past. C. Mitchell clarified that this is not an independent driver. D. Feldman suggested researching the history of issuing new hackney licenses in Town and determine the current status.

Motion to Approve Hackney License application for Genel Vilijean of Veterans Taxi to expire 2/5/21

No further discussion

Final Resolution: Motion Carries 5-0-0

6. Child Sexual Abuse Awareness Committee Annual Report; Discussion & Review of New Policy and Potential By-Law Amendment

Members of the Child Sexual Abuse Awareness Committee (CSAAC) came before the Board to present their annual report; moved to call their meeting to order. B. Correia summarized the goals and accomplishments or 2018 and the focus areas and objectives for 2019 of the CSAAC from their annual report. B. Correia said they are meeting with local sports groups this week to develop a plan for refresher training this week; all departments are working to hold the refresher training for those who took the initial training three or more years ago. The CSAAC expressed thanks to Deborah Spinnelli for all of her years of service to the CSAAC and welcomed Amy Berdos in her place. D. Feldman asked if the CSAAC is where they had hoped to be from the beginning; B. Correia recalled the creation of this committee and the development of the by-law currently in place today that has brought them to today. B. Correia said the beginning was difficult and are now seeing successes in Town and are making slow progress at the state level. L. Walsh said the CSAAC is comfortable with where they are now and know the committee is here to stay; they remain visible, vocal and determined. D. Feldman said they should be proud of their determination and progress. D. Feldman added that having gone through the training, he is forever changed and encourages all parents to take the training. C. Mitchell asked about their budget; L. Walsh said it still works and also have a donation in place to accompany their budget. L. Walsh clarified that the books used in the course are paid for by the departments taking the training. J. DeVellis expressed tremendous commendation for the work the CSAAC does on such a small budget each year. J. DeVellis said the original structure of the CSAAC included representation of each department and group in Town and asked if there is another that could be added to the Board; L. Walsh said it hasn't been discussed as

a Board yet. L. Gibson asked about scouts; L. Walsh said they are trying to include them and another goal for 2019. C. Mitchell said the scouts have a great youth protection training in place but should collaborate with the CSAAC. B. Dudley said he was speaking with someone today from North Attleboro about the CSAAC and her reaction was one of admiration; expressed thanks to Town Administration for their continued support that is part of the reason why there is a positive reaction to the work done by the committee.

C. Mitchell said there is a draft policy before the Board and the CSAAC tonight that would provide a method and means of reporting. C. Mitchell said he would like to table this discussion for the next BOS meeting on 2/19/19 until after everyone has had time to review the draft policy and discuss as a committee.

C. Mitchell said there is a hole in the existing policy that does not outline a process in place for reporting. D. Feldman said the current policy calls out mandated reporters but does not outline what to do next; L. Walsh said the training outlines what to do. D. Feldman said the written policy will be a resource for everyone and will fill gaps. A. Berdos said this policy would build on the goal of the CSAAC to outline a protocol to follow when reporting. B. Correia said the CSAAC will review the proposed by-law amendment at their meeting this week and report back to the Board on 2/19/19. N. Stockwell said she is pleased the Town is supporting them and providing them extra muscle.

Police Chief William Baker said the plan was to have a working meeting with the CSAAC and stated that the current bylaw in place is not sufficient as is and should further define criminal conduct and actionable criminal conduct. Chief Baker said the policy would guide the Town in the event there are complaints filed in the future and the bylaw would add expertise needed to the CSAAC that is currently missing. Chief Baker said the additional expertise would enhance the CSAAC. Chief Baker added that a question arose about the investigative role by the CSAAC and stated that all investigations should be completed by the Police Department. L. Walsh asked if the changes gave the Police Department more authority; Chief Baker said it does not, it allows the Police Department mechanisms to further protect the Town and community in the absence of criminal prosecution. C. Mitchell added that it is another level of protection for the children in Town. CSAAC adjourned their meeting.

J. DeVellis added that the Board of Selectmen need to accept the CSAAC annual report.

Motion to Accept CSAAC Annual Report made by L. Gibson, motion made second by M. Elfman

Discussion: C. Mitchell thanked J. DeVellis for his clarification.

Final Resolution: Motion Carries 5-0-0

7. Billboard Advisory Committee - Discussion re: Proposed Amendments to Sign Bylaw

William Casbarra and Barnett Ovrut of the Billboard Advisory Committee (BAC) came before the Board to present proposed amendments to the sign bylaws. W. Casbarra summarized the purpose of the BAC and its creation to recodify the sign bylaw and address billboards in Town. B. Ovrut said the BAC would like to address multiple provisions at Annual Town Meeting as presented in two separate articles; Miscellaneous and Electronic Billboards. B. Ovrut said the Miscellaneous article would address proposed amendments to the sign bylaw as the result of issues identified by the Zoning Board of Appeals and Building Commissioner, past and present, over the last few years; further clarify some existing language. The Electronic Billboards article would update the definition of billboard and would add a mitigation requirement that the applicant must go before the Board of Selectmen before installation of the Electronic Billboard for mitigation as determined sufficient by the Board of Selectmen. C. Mitchell asked if any of this changes the downtown rules; B. Ovrut said billboards are only allowed on Route 1. B. Ovrut said there is currently one electronic billboard and there could be up to seven total with this bylaw amendment. D. Feldman asked if these provisions give the Zoning Board of Appeals and the Building Commissioner enough clarification to make concise decisions; B. Ovrut and W. Casbarra both responded yes. J. DeVellis asked if there is a definition on mitigation; B. Ovrut said no. J. DeVellis asked what

the BAC sees as suitable mitigation; B. Ovrut said he intentionally left the language vague as he perceived the impact of the billboard to the entire Town and mitigation as determined by the Board of Selectmen would be appropriate as they see fit with consistency. W. Casbarra said he can provide mitigation agreement examples from other communities for the Board to review. J. DeVellis asked if there is a provision in place for Town-owned billboards and if the Town would be under the same jurisdiction; W. Casbarra said the Town would not be exempt as the billboard would need a permit from the state and would need to meet state requirements.

8. Selectmen's Update

C. Mitchell thanked the Kraft Group for the send-off rally at the stadium, the community for the pep rally and to Paul Farmer for the signs on the Common.

C. Mitchell said he attended the Fire Department Annual Merit Award Ceremony with Bill Keegan and Mike Johns and expressed commendation for our local firefighters who received awards and he read the list aloud for the record. C. Mitchell asked for the Board of Selectmen to be added to the invitee list in the future as they would all like to show their respect and support to our local fire department.

9. Town Manager's Update

B. Keegan also expressed congratulations to the New England Patriots and the Kraft Organization for a sixth championship title and their hard work. B. Keegan called out to local coverage of "Title Town" and what makes Foxborough so special in addition to being home to the New England Patriots.

B. Keegan said the Final Permanent Solution Statement has been submitted to the MassDEP by Woodard & Curran on behalf of Neponset Reservoir Disposal Site.

B. Keegan said the Town is in the process of meeting with the Advisory Committee to review department budgets and are going to continue to provide new information as it becomes available. B. Keegan said the CIP hearing is scheduled for March 9, 2019 here in this meeting room and will be televised as done last year.

M. Elfman asked about the most recent CSX fire and what is the status of the Town's injunction. B. Keegan said the Town is in communications with CSX who have expressed they are working to address issues. B. Keegan said the grade crossings have improved so far but the Town has not received updates from the Fire Chief yet about the train fire. L. Gibson asked about two previous meetings with the neighborhood and CSX not attending; B. Keegan said CSX was here at Town Hall at the last meeting and on the first call and that MassDOT was not able to attend the last in-person meeting. B. Keegan said the Town is working to ensure MassDOT is in attendance at future meetings. M. Elfman asked for update on the injunction filed court; B. Keegan said the Town put CSX on notice to address the issues. L. Gibson said she is hearing differently from the neighborhood and is seeking clarification; B. Keegan said there have been improvements with grade crossings. L. Gibson said the Town should hold CSX accountable for paying for the resources used to address the fires; B. Keegan agreed.

10. Assistant Town Manager's Update

M. Johns congratulated the New England Patriots and fans on the sixth championship win.

M. Johns said the Town has advertised for the Assistant Treasurer Collector and expect to begin reviewing applications on February 11, 2019; the advertisement will remain open until the position is filled. M. Johns said the Town will follow the Town's typical three-step interview process and will include L. Gibson in the in-person interviews.

11. Action Items

11.01 Road Race Application - Norfolk Advocates for Children's 5K and Fun Run Saturday, April 27, 2019 from 9:00 a.m. - 12:00 p.m.

Motion to Approve made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion Carries 5-0-0

11.02 Normandy Farms Campground, LLC - Approval of (6) One-Day Wine & Malt Beverage License Applications for a Food Truck Festival on 4/27/19, 5/4/2019, 7/10/19, 8/7/19, 10/5/19 and 11/16/19

Motion to Approve made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion Carries 5-0-0

11.03 Orpheum Theatre - Approval of (10) 1-Day Wine & Malt Beverage Liquor License Applications: 2/15/19 Norton Singers: Keep the Love Alive; 2/22/19 OnCommon Comedy Night; 2/23/19 Concert: Trinity; 3/2/19 Concert- No Static; 3/22/19 Maureen Hancock; 3/23/19 FFV Take 2 Fundraiser/Confikids; 3/30/19; Concert: Big Kurt; 4/13/19 Comedy: ALS Fundraiser; 4/20/19 Comedy: Comics 4 Carr Fundraiser; 4/26/19 Concert: PMC Fundraiser

Motion to Approve made by L. Gibson, motion made second by M. Elfman

Discussion: J. DeVellis recused himself from the discussion and went before the Board as the President of the Board of Directors for the Theatre. M. Elfman said he is confused why this is back before the Board. B. Keegan said the applicant withdrew their application for an annual license and can now apply for one-day licenses while re-doing their annual application. M. Elfman asked J. DeVellis asked why the annual application was withdrawn; J. DeVellis said the original application for the annual license was pulled because the Theatre is now fully-booked and have hired a manager for the license that was not previously on the application and reiterated what B. Keegan stated earlier. L. Gibson asked if the person hired as the manager would be on-site for all events listed; J. DeVellis confirmed. J. DeVellis apologized for the confusion and back-and-forth with the license application.

Final Resolution: Motion Carries 3-1-1

D. Feldman voted against. J. DeVellis recused himself. D. Feldman said he was voting against these applications because he said previously he would not approve more licenses for this venue as he is concerned a precedent would be set. D. Feldman added he is excited to review the new application when submitted. J. DeVellis agreed with D. Feldman and said they anticipated having the full license by now.

11.04 COA/HS - Acceptance of Gift Donation of \$35 to the Council on Aging/Human Services from Anonymous for the Lockbox Program

Motion to Accept Gift Donation made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion Carries 5-0-0

11.05 COA/HS - Acceptance of Gift Donation of \$6,000 to the Council on Aging/Human Services from the Friends of Foxboro Seniors for new furniture in the center lobby

Motion to Accept Gift Donation made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion Carries 5-0-0

11.06 Veterans - Acceptance of Gift Donation of \$100.00 to Veteran Services from Charles and Jean Albert for the General Gift Fund to help a person in need

Motion to Accept Gift Donation made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion Carries 5-0-0

11.07 Tuition Reimbursement - Officer Charles Gallagher tuition reimbursement of \$1,170.00

Motion to Approve made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion Carries 5-0-0

11.08 Appointment of Kurt Pollister and Adam Byrnes to the Veteran Services Advisory Committee as Members for terms expiring 5/1/19

Motion to Appoint made by L. Gibson, motion made second by M. Elfman

Discussion: L. Gibson thanked Officer Byrnes for his service and welcomed him back to service at the Foxborough Police Department.

Final Resolution: Motion Carries 5-0-0

11.09 Hackney License Renewal - Maurice Barkachi to expire 2/21/21

Motion to Approve made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion Carries 5-0-0

12. Adjourn

Motion to adjourn at 9:09 p.m. made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion Carries 5-0-0