

Board of Selectmen Meeting Minutes
December 13, 2011
Town Hall Annex Meeting Room

Members Present: Chairman Florence Seldin, Timothy Roper, Len Sussman, Sean Summers and David Whitcomb also present Jill Goldsmith, Town Manager.

Chairman Florence Seldin called the meeting to order at: 4:01 pm.

I. Minutes

December 6, 2011 – Page 2 – Second to last paragraph change sentence to read:
They will interview candidates soon after.

MOTION by: Mr. Roper to approve the minutes as amended

Seconded by: Mr. Sussman

Vote: 5-0-0

II. Public Forum

Terry Whalen announced for personal and professional reasons he has decided to remain employed by the Town of Chatham.

III. New Business

A. Committee Review – Historic Business District Commission

Dan Sylver, Chairman of the HBDC – Commission processed 136 applications for review of appropriateness. 130 of the applications were brought before the Commission for a public hearing with six being withdrawn prior to the scheduled hearing.

He mentioned some notable items:

- passage and finalization of an article at Town Meeting for the expansion of HBDC boundaries to cover all of the Bromley property (12 & 20 Queen Anne Road)
- New demolition form to identify unique attributes of a building along with its history and requires a review of the Historic Commission.

Ms. Seldin announced there are two (2) openings for alternate members on HBDC. Interested parties are encouraged to submit a Talent Bank Form.

B. Chatham 300: Request to Install Banners for 2012

Shareen Davis, Chatham 300 Committee, requested permission to install approximately 40 tercentennial banners throughout the Town. Installation would take place shortly after January 1 and the banners will remain through the end of 2012. The Committee will monitor and maintain the banners. They will also coordinate with the Chatham

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Creative Arts Center Festival of the Arts and Chatham First Night on the installation of each groups banners.

MOTION by Mr. Summers: to approve
Seconded by: Mr. Roper and Mr. Sussman
Vote: 5-0-0

C. Public Hearing; Transfer of Liquor Licenses

Lazy Lobster to Lazy Lobster, LLC
Matthew Gardner, LLC Manager for Lazy Lobster, appeared before the BOS for any questions. He added Mr. Shaw will pay the outstanding taxes.

MOTION by Mr. Summers: to approve the transfer
Seconded by: Mr. Sussman
Vote: 5-0-0

South Chatham Variety and Deli to Deftos Liquor
Attorney Mike Ford represented Deftos Liquor, Inc., a family corporation owned by the Jamoulis family. The family has a long history of operations in this business and currently owns a package store in Brockton which has been owned by Mrs. Jamoulis' family for 65 years. The business will not continue the deli and have plans to enlarge the coolers and lengthen the checkout counter. The lease runs through June 30, 2015.

MOTION by Mr. Sussman: to approve the transfer
Seconded by: Mr. Roper and Mr. Whitcomb
Vote: 5-0-0

D. CBI – Noise Cannons in Chatham Harbor

Ms. Seldin stated CBI requested to be on the agenda to speak on this topic. She provided an overview of the actions of the BOS with regard to the noise cannons. Heard from others in the community to even trying this on a temporary basis. The BOS is faced with what is in the overall best interest of the Town.

Ms. Gagne, Shellfish Constable announced they have ordered one air cannon but have not yet received it. They have a scheduled meeting with Bob Prescott from the Audubon Society scheduled for Friday, December 16, 2011. The first testing site for the air cannon will be behind Strong Island to see how loud the cannon is and what impact, if any, it might have.

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Mr. Summers asked if any thought was given to having staff out there with a skiff to scare the ducks off.

Ms. Gagne reported the Shellfish Advisory Committee looked into several alternative methods. This option was chosen for cost effectiveness. If staff were to be out there with a boat it would have to be from sunrise to sunset.

Mr. Zuest, Chatham Bars Inn, voiced opposition of the noise cannons as the proposed locations are near hotel property. Primary rooms of request are on the bluff closest to the harbor. He would consider a gunshot every 20 minutes a nuisance.

Mr. Zuest is concerned with the economic impact it would have on his business. CBI is closed two nights per week already. They employ 192 people. He added the average expenditure of the guests of the hotel \$75-\$100 per person per day spent off property.

Lynn Van Dine Weller, Shore Road, is a writer who operates her business out of her home. She too voiced concerns about the noise and quality of life. She believes there are other alternatives that are cost effective that do not have this impact.

Dr. Duncanson spoke to the references in the letter to the BOS from Mr. Zuest's attorney with regard to state statues. He stated no formal environmental review is necessary as no permits are required and no state or federal money was used.

Mr. Sussman asked what the proposed location of the experiment is and suggested the Town wouldn't know the impact unless all proposed locations are tested.

Dr. Duncanson said the hope is the noise cannon won't be audible from shore front properties. The idea is to put it at most remote location so they can get a sense of how loud it is. If it causes a negative impact in this location then it wouldn't make sense to move it in closer. If it's not audible from the most remote location (2/3 mile away) then they would possibly test the other 2 locations to see if it becomes problematic. The Town By-Law has 150' noise limit if it can be heard at 2/3 mile then it is in violation of the Town By-Law and therefore they couldn't use it.

Mr. Sussman asked what the standards are and would there be public notice so people are listening for it.

Dr. Duncanson responded there are no noise standards so it is difficult to determine what the standards would be. They will have to rely on the court of public opinion.

Mr. Roper asked Dr. Duncanson to speak to Mr. Zuest's claim that the cannons have not been used on the East Coast.

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Dr. Duncanson explained the cannons are used at landfills and airports and are used in other places with success.

Mr. Summers stated the shellfishing and hotel/motel industries are very important. However, to hear a blast with any regularity should be used as a last resort. He suggested assigning staff to drive a boat in these areas to displace the ducks which won't cost anything but fuel.

Mr. Whitcomb explained there were several contingencies on this plan: noise, approval of the Audubon Society and the success of the cannons. It is an experiment should still go on as proposed.

Jaime Bassett spoke on behalf of the Shellfish Advisory Committee. They are aware of public and private concerns for the use of noise cannons as one possibility. They are currently working to find reasonable depredation efforts and are investigating alternatives. Their goal is to determine which method might best protect the resource. They want to protect the mussels and steamers resource but are sensitive to the concerns of the private and public sector. He invited public to the Jan. 12, 2012 Shellfish Advisory Committee meeting.

David Likos, Chairman, Shellfish Advisory Committee, wanted to stress this is an experiment. A noise complaint was registered with the police department and there aren't any cannons out there. He added they will push for a 30 minute interval between rounds. It is important to deal with predatory ducks and the Committee is trying to target areas where shell fishermen are able to harvest. The Committee favors bringing the noise cannon to Strong Island and setting it up there to monitor.

Mr. Sussman expressed support of the experiment as he doesn't want to base decision on fears and anticipation.

Mr. Roper suggested proceeding with two experiments the noise cannon at Strong Island effort and assigning boats to run through the areas where the ducks are. This will enable the Shellfish Department to gauge how effective each method would be.

Mr. Summers stated the need to look at other options that don't affect anyone before using the noise cannons. He stated he doesn't support a formal test period of any length.

Dr. Duncanson suggested a longer test period than just one day due to changing environmental conditions.

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MOTION by Mr. Whitcomb: to continue with the experiment contingent on Audubon Society approval and condition of noise.

AMENDED by Ms. Seldin: to include directing the Town Manager to work with the Shellfish Department and Harbormaster to deploy boats

Seconded as amended by: Mr. Roper

Mr. Summers asked for clarification of the length of the test period.

Dr. Duncanson explained testing alternatives.

Vote: 4-1-0 (Mr. Summers dissented)

- E. Vendors/Sales of Goods on Town Property (Discussion with Parks and Recreation Commission)

Ms. Seldin explained craft shows on Town property as well as events on Private Property have been a concern that has surfaced over time. BOS is not going to make any decision today but wanted to hear public concerns.

Ms. Franz, Executive Director, Chamber of Commerce stated their major concern is use of the area in front of the Community Center. They feel it creates an unfair advantage to outside vendors. She suggested the Town should re-evaluate the process of renting this space especially at a rate of \$600 per day. Perhaps they could raise the rental fee to \$1800 and cut back the number of events. This will provide more income but fewer events which would be less competition to the businesses downtown. She added it is important to put in checks and balance so there is some regulation and direct the Park and Recreation Department to staff these events. Currently local businesses are required to obtain approval to place banners or signs yet the BOS does not have to approve banners or signs for these events.

Ms. Seldin stated this is Town Property therefore the BOS has jurisdiction and they are looking at this as a global issue.

Mr. Summers asked the Chair for a point of order to clarify jurisdiction of the area in front of the Community Center. It is his understanding that because Park and Recreation is a regulatory commission they have jurisdiction over Park and Recreation property.

Ms. Seldin responded the Park and Recreation Commission gives approval as to who can use its property however, it is public property therefore the BOS has overall jurisdiction and they are responsible for ensuring by-laws and regulations are enforced and adhered to.

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Mr. Bill Bystrom stated he doesn't like the signs and it is a safety issue and the appearance of the tents. However, he disagrees the Town is subsidizing the vendors. The money from these events is used to provide recreation programs at the Community Center. He suggested the Park and Recreation Department raise rental fees, or attach a charge to the fee (proposal to rent) to cover the cost of an employee to oversee the issues presented.

Ronald Rudnick spoke in opposition to the events put on by promoters who are putting money in their pockets. This is not an issue where a civic organization is trying to raise money. He is concerned with the signs directing vendors to park behind the Colonial Building. He believes these events are competition to the retailers downtown.

Mr. Roper provided an overview of an email he sent to members in the business community for input on this issue. Many concurred that the Festival of Arts at Chase Park is a local fundraiser and is a local event that benefits this community. The professionally organized events at the Community Center drew considerable concern as there is a sense of equity that year round businesses are subject to more regulation. There was concern over the improper sale of food and drink without permit/regulation of the Board of Health. Signs and flags was the most problematic issue.

Ms. Cynthia Demos, Demos Antiques, Ltd., voiced concerns of these events at the Community Center. She feels the promoters are ignoring the by-laws already on the books. Transient vendors come in direct competition with the shops in Town and they only want prime time in the summer when most shops take in the most of their money. She provided photographs of the tents and flags/banners that were set up at a particular event.

Mr. Seidewand, Chairman, Park and Recreation Commission, wanted to clarify a few points. The flags and banners were at the last show and caught Parks and Recreation Commission off guard. The promoters were notified they were too close to the street. Each promoter is supposed to have insurance which is verified. These events have become popular because of the number of tourists in Chatham. No one has come to P&R to voice their concerns. The only sign they are allowed to put out is size of a real estate sign.

Darren Sepelli, East Coast Craft Shows is one of the promoters. He wanted to dispel the myth promoters are making thousands of dollars and they do obtain liability insurance.

Ms. Goldsmith, Town Manager, announced there is a meeting scheduled with various department heads to discuss this issue. However, a more global discussion needs to take place. The purpose of tonight's agenda item is to hear concerns and propose putting together a more formalized process. The goal is to make everything consistent with

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what regular business have to obtain. She proposed putting this before the BOS again in February with draft rules and regulations. This will be a coordinated process that everyone can see and know what the rules are. Policies will be drafted and circulated for review to ensure is included in the process.

Mr. Whitcomb questioned P&R if they have entered into any contracts for next year.

Mr. Tobin responded no contracts have been entered into at this time. P&R will not be accepting any applications until BOS has made its decision.

Mr. Summers commented there are problems that have to be solved regarding inequity between private and public sector. He has argued against things instituted that are in direct competition with local businesses but personally does not feel the fairs hurt the businesses on Main Street and actually bring business to the shops and restaurants downtown.

Mr. Whitcomb agreed there is a need to take global look at this issue especially with regard to private property vs. public property, for profit vs. non-profit entities. He suggested looking at alternate locations to hold such events.

Mr. Sussman suggested limiting the number of events in the given season.

F. Update – North Beach Camps

Request to the BOS to send a letter to Katry Harris, unresolved issues to 106 process.

Stephen Buckley spoke about environmental impact statements, categorical exclusions and environmental Assessments. He offered to draft portions of the letter with regard to the environmental assessment to be included in the letter to Ms. Harris.

Robert Long, Chairman, North Beach Advisory Committee and North Beach Island resident explained the decision from the Keeper was regarding the five National Seashore Camps and their eligibility for the National Register. They are still awaiting a decision on the eligibility of all 11 camps. They are requesting intervention from Katry Harris because it is their position that it is not an emergency situation and does not meet the definition of an emergency as documented in the Sec. 106 process.

Mr. Whitcomb stated he feels a more imminent problem is the permits are not going to be renewed.

Mr. Long responded they feel Mr. Price is not adhering to the Sec. 106 process. Unless there is some intervention the permit holders will have to remove their belongings.

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Although they feel it is fiscally irresponsible to allow the camps to remain vacant. Preserve camps as long as possible.

Mr. Summers voiced his support of sending the letter.

MOTION by Mr. Sussman: to support authorize the Chairman to send a letter on behalf of the BOS to Katry Harris.

Seconded by: Mr. Whitcomb

Vote 5-0-0

Donna Lumpkin, NB Camp Owner, spoke of the concern with North Beach Island and the weakening beach. She stated the environmental concern is as important as the historical issue. She feels it is important for Cons Com to get involved.

Ms. Seldin mentioned the NPS went before Cons Com and they seemed to be satisfied with what was proposed by NPS.

Mr. Summers also voice concern with the environmental impact. He requested all departments examine what can be done to make whatever effort possible to preserve those camps.

G. Committee Appointments (Public Ceremonies, Committee for the Disabled)

MOTION by Mr. Sussman: to appoint John Poignand to the Committee for the Disabled for the term ending June 30, 2014 unless sooner revoked or until a successor is appointed.

Seconded by: Ms. Seldin

Vote: 5-0-0

MOTION by Mr. Sussman: to appoint John R. Raye to the Committee for the Disabled for the term ending June 30, 2014 unless sooner revoked or until a successor is appointed.

Seconded by: Ms. Seldin

Vote: 5-0-0

MOTION by Mr. Whitcomb: to appoint Richard Clifford to the Public Ceremonies Committee until the committee's work is completed or until a successor is appointed.

Seconded by: Mr. Sussman

Vote: 5-0-0

Ms. Seldin announced the Solid Waste Advisory Team is accepting applications. Until Work is complete.

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H. Regional School Building Committee Update - Report from David Whitcomb

Mr. Whitcomb announced 22 firms received the request for services application and 11 submitted the completed application. The sub-committee will interview four candidates on Dec. 14, 2011 and will select a candidate to negotiate with on Friday, December 16, 2011. The candidate selected will be submitted to MSBA on December 19, 2011 and the sub-committee will meet with MSBA on Monday, Jan. 9, 2012 to see if they approve the selection. If they obtain approval from MSBA a contract will be executed on and Jan. 13 execute contract. They have four very strong candidates.

IV. Other Business

MOTION by Mr. Summers: to adjourn.

Seconded by: Mr. Whitcomb

Vote 5-0-0

Meeting adjourned at 6:40 pm.

Respectfully submitted

Kristin M. Sullivan