Board of Selectmen
Minutes of January 31, 2012
Bourne Veteran's Building
Buzzards Bay MA 02532

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Town Administrator Tom Guerino

Don Pickard, Chairman
John Ford, Vice Chairman
Earl Baldwin
Peter Meier

List of documents:
None.

Meeting called to order
7:00 pm by Chm. Pickard.

Moment of Silence/Salute the Flag

Public comment (non-agenda items)
Bob Schofield as Bourne representative to the Cape Light Compact. Some of rules changed for energy audits for population on Cape Cod. There are mainly income guidelines and enhancement residential programs changes. Everyone is entitled to a free audit and 75% incentive and up to to $2,000 for insulation and $50 for new refrigerator. 800797-6699 to schedule free energy audit.

Approval of Minutes
Discussion on approval of minutes. The consensus of the Board is to approve minutes pending Town Counsel opinion due to the resignation of Sloniecki and two former Board members Mealy and Meli for the 4/19/11 minutes.

Meier MOVED and SECONDED by Ford to approve and encumber executive minutes of 12/20/11 as submitted pending Town Counsel opinion. VOTE 3-0-1 (Ford abstention).

Ford MOVED and SECONDED by Pickard to approve minutes of 4/19/11 as submitted, pending Town Counsel opinion. VOTE 2-0-2 (Baldwin, Meier abstentions).

Correspondence
Meier read correspondence into record. All correspondence is on file in the Town Administrator's office.

Item B – numbers are equal to what the town received last year in Chapter 70 and General Local Aid to cities and towns. With the first view of the cherry sheets, local aid is the same. Assessments are up substantially in the area of charter school.

The total budget is equal is $51M; $62M including sewer. Ford read last years numbers.

Item E – Ford explained real estate taxes and the 2 ½% are different. He encouraged citizens to go to Town Meetings as this is what sets the tax rate. Assessors re-set the tax rates on Town Meeting vote.

Item G – Pickard recognized Sloniecki's work on the Board and will miss his membership.

Pickard asked TA Guerino to put a one-page letter he received after the Selectmen's packets were sent onto a future meeting correspondence.

Licenses/Appointments

a. MMA

Captain MacDonald, VP of Operations at MMA, seeking year round all alcoholic liquor license, entertainment (Sunday and weekday) and common victualer food license.

Chm. Pickard opened hearing by reading Bourne Enterprise hearing notice. Applicant present tonight.

MMA acquired property and are looking to transfer existing license at that time. Captain MacDonald discussed an 8-week waiting period. He let the license lapse to honor the limited events from last year. It is MMA's intention to run limited events throughout the year. Approaching to request for a single year-end license.

Abutter who lives directly next to the MMA Beachmoor explained buildings are less than 100 feet apart. Concerns about the previous owners regard with the neighbors. Asking to restrict entertainment license (in building and on grounds) and restrict time to 10 pm on both alcohol and entertainment licenses.

Ford – asked if complaints were mostly from weddings. The weddings did have the most complaints with the noise, tents and the DJs turning speakers outward. Also Saturdays all summer were an issue. During the rest of the week, was okay. Group of neighbors went to the Association to express their concerns.

Ford said the Selectmen cannot limit a certain number of liquor licenses; if you have a restaurant, you can get a liquor license.

Captain MacDonald commented on working to be a good neighbor. He has no objection to restricting license and noise after 10 pm; with regard to outside entertainment, he is confident

there is common ground. He suggested having a tent until 7 pm or 8 pm at night with some reasonable window in the afternoon.

Meier – As being President of Taylor's Point, he encouraged abutter to contact him with concerns and complaints. As far as outside events, he feels the Academy will be run differently from the previous owners.

Ford – asked Captain MacDonald if he would be receptive to stop music at 10:00 pm. He also asked the Captain about positioning the tent on the other side.

No further public comment.

Meier MOVED and SECONDED by Ford to recess MMA hearing and reconvene after open and recess the Port O'Call hearing. UNANIMOUS VOTE.

Ford MOVED and SECONDED by Meier to open public hearing of the Port O'Call, recess and reconvene after the closing of the MMA hearing. UNANIMOUS VOTE.

Ford MOVED and SECONDED by Meier to close MMA hearing. UANIMOUS VOTE.

Chm. Pickard recognized concerns from the past. Applicant has no history and anticipates will be better neighbors. TA Guerino said there are currently no all alcohol and entertainment license restrictions.

TA Guerino said current license has no discerning between inside and outside with regard to entertainment in only that patrons go out to the fenced in area.

Ford – raised issue on having a restricted license for outside entertainment with the Courtyard, which didn't allow outside entertainment after 10:00 pm. TA Guerino said that license has since been lifted. Ford recommends to leave inside as is, but believe restricting outside entertainment to 10:00 pm is reasonable.

Meier – any noise complaints to call the police for record purposes.

Pickard – issue with restricting license before issued as applicant has no history. Baldwin concurs.

Meier MOVED and SECONDED by Baldwin to approve year-round all alcoholic liquor license, entertainment (Sunday and weekday) and common victualer food license for the MMA, f/k/a the Beachmoor request dated 1/31/12. DJs, bands, comedians to be conducted weekdays between hours of 8:00 am – 1:00 am; Monday – Saturday 11:00 am – 1:00 am; Sundays 8:00 am – 1:00 am; Monday – Saturday 11:00 am to 1:00 am Sundays. VOTE 4-0.

TA Guerino said if the Board wishes to change the hours on the entertainment license because of any new complaints with MMA, they will need a hearing as it was already issued.

Meier MOVED and SECONDED by Baldwin to open and defer the Aquaculture Grant License until after the closing of the Port O'Call hearing. VOTE 4-0.

Meier MOVED and SECONDED by Ford to re-open the Port O'Call hearing. VOTE 4-0.

b. Transfer Liquor License ownership from Port O'Call

Chm. Pickard opened hearing and read notice for the record.

Applicant Steven Harunk to lease building from Mr. MacDougall. Routing slip has been addressed and abutters cards received.

No public comment.

Ford – stated are there changes from the previous owner? Applicant looking to change the jukebox to more of a surround sound; already installed video surveillance equipment; at some point would like to add a deli; clean up the outside; make more quieter. Applicant is looking to keep the establishment with less problems and has installed remote video in the rear alley. He plans to be on premises to keep an eye on things.

No further Board comments.

Meier MOVED and SECONDED by Baldwin to close public hearing. VOTE 4-0.

Meier MOVED and SECONDED by Baldwin to approve transfer in ownership of Port O'Call from Ronald J. MacDougall to Steven Harunk. Transfer to include liquor license, food license, entertainment license. VOTE 4-0.

c. Aquaculture Grant Licensing Hearing

Meier MOVED and SECONDED by Ford to reconvene Aquaculture Grant Licensing hearing. VOTE 4-0.

Ford MOVED and SECONDED by Baldwin to open public hearing. VOTE 4-0.

Patrick Ross, applicant.

Chm. Pickard read into record public hearing pursuant to provisions of MGL Chapter 130, Section 60, as amended, that Patrick Ross has petitioned to establish an aquaculture grant/operation within the municipal waters of the Town of Bourne within Buzzards Bay.

Distinction from fin fish and shellfish. Nothing added to the water except for cages and oyster seed. Grow out from sand to 3" market size oyster. Permit process begins with a grant

application to go to the State. Site survey conducted to look at existing shellfish stocks, eel grass, Army Corps of Engineers have to approve grant. Town Conservation Commission and use Survey as a resource for evaluation. Board has ultimate approval. Model used as template. Equipment will be completely under water at all times 10 feet deep with four (4) visible buoys. Proposed area in Tobey's Island. Evaluation determined no eel grass and no issue for navigation. Cages will be strung on a long line similar to lobster traps.

Benefits for the town: stocks will be refurbished; local product for retailers and restaurants; partnerships with local marine services and companies; educational component (Bourne Boating reached out as a partner).

Mr. Tim Mullen, DNR Director. Site suitable for 1-acre agriculture grant. Approvals will be necessary.

Ford – asked about a timeframe. Timeframe is 2-3 years depending on the size of the oyster seed. Ford asked if there will be any service to the seeds. There will be maintenance which will be grading to keep like-sized animals together and fouling that builds up inside and outside the cages.

TA Guerino said Mr. Ross went beyond by getting abutters notified.

Jim Mulvey – Mr. Ross showed exceptional patience in his applications. The town was not prepared a couple of years ago to handle this grant. His proposal is acceptable on all points to him. He would suggest long lines be used with sinking lines. Sees no reason to oppose this project.

Mr. Skip Barlow – expressed support of this project as it is a positive move for the town.

Meier MOVED and SECONDED by Ford to close public hearing. VOTE 4-0.

Ford MOVED and SECONDED by Meier to approve an agriculture grant as presented by Patrick Ross this evening. VOTE 4-0.

Meier MOVED and SECONDED by Ford to take Item "e" and Item "f" out of order. VOTE 4-0.

d. Comcast Cable License, Bob Schofield

Comcast, Schofield and Attorney Epstein ironed out details before coming tonight to the Selectmen. Contract is used throughout the Cape; formatted for Mashpee with changes for Bourne worked into it.

Some of highlights of contract:

- Comcast wants to get out of the studio local access channels. Intent of changing over is to have a 501C3 form – independent, non-profit. This will be done within the next 3-4

months. Bourne will fund Comcast to run studio until 6/15/12 at which point it can be transparent. When signed by Selectmen and accepted by Comcast, rate payers will be charged as a surcharge on bills as 3% based on basic cable charges. With that funding, it will fund the operation of the studio on a yearly basis based on gross revenues for TV operation and anticipated revenue currently with last year's 7500 subscribers would be about $200,000 per year.

- Major accomplishment for the Town of Bourne was a pass through yearly of approximately $12,000 for replacement and update capital equipment (microphones) for the studio. Town able to negotiate $200,000 over 10-year period ($20,000/year). All other capital equipment outlays will be worked into the contract will be passed onto the rate payers.

- The local store has been in a good location and good for Bourne used by local constituants, usage was less than half. More of a service to constituants with coming to the house and not charging for this. Expansion of store hours until September. Currently there are three (3) or four (4) adjacent towns with stores.

- Service households on Otis and about 225 subscribers; they have been part of our local programming and will be part of our programming in the future and pay like other rate payers. Side agreement set up by their attorney between the two parties to have a bigger based to draw upon.

Mr. Schofield met with School Superintendent to get feelings of a studio in the high school. Former Superintendent LaFleur didn't want to change; current Superintendent doesn't want to change as well. More of a fair return for the school when it is in a 5013C. Cable Advisory Committee is not to set up for a 5013C as it is not part of their charge. Diane Flynn will help with this area and asked anyone interested for committee to set up and make it work.

Ford – inquired about the 3% rate. Mr. Schofield said 3% is the lowest on the Cape as far as charging for the service. Otis will be included in the town. Bourne wants to keep the store as Comcast wants to regionalize; Mr. Schofield said Comcast's facility but they will take care of their own business.

Meier – if they want Bourne's business, Comcast should listen to the citizens with regard to the store. Mr. Schofield said he feels the same way, but Comcast is running a business and that is the way it is.

Meier – raised issue on page 57 of the contract, regarding town buildings getting free hook-up. What is not listed: Monument Beach marina; Continental Apartments; Bourne Housing Authority. Mr. Schofield said all do not do not come under criteria, but can add the Monument Beach marina.

Meier – Questioned if can vote tonight. TA Guerino said Selectmen can vote.

TA Guerino asked about areas in town that are no hooked up (density per mile, 300'off roadway). Mr. Schofield said there was some discussion about all the points. No density per mile, but as long as there is service to them from a utility pole.

Ford – asked if counsel hired to negotiate legal aspects of the contract. Yes.

TA Guerino asked what it will cost to run the operation (non-profit). 3% figure plus capital costs over the period of the license appears to be sufficient to run operation. $10,000/year growth without any more subscribers.

Skip Barlow – recommends the town go into a contract, ask Comcast to pay extra percent to make sure a smooth transition into the non-profit.

Ford – requested TA Guerino to seek Town Counsel with regard to a non-profit leasing a public building. Doesn't sound right for non-profit to rent for a right to be there.

TA Guerino – public education access is required. Mr. Schofield said it is a joint venture and are paying their fair share.

Jim Mulvey – Consider issues that have come up tonight that not getting answers for on a 10-year contract. Questions would indicate not in a position to take an act upon. Produced by a committee and the non-action of said committee is a violation of the Open Meeting Law. None of this has been done by this committee. No minutes of a year of meetings. No records who attended meetings. What motions made, voted or not. No record this committee made a motion to select a spokesperson or a secretary to take notes. Bargaining in his thoughts are give and take; he sees only give and no take. Losing studio benefits, setting up a corporation, surcharge. Paying the same and getting less. This should be completely rejected by the Selectmen. He suggests dismiss current committee and appoint a new committee. Selectmen dedicated to attend meetings. Need on-the-ground development of this contract and detail. Counsel was extremely knowledgeable but gave suggestions when asked of him and didn't negotiate any of this contract.

Pickard – asked Mr. Schofield how many meetings with regard to negotiation process as a committee. Mr. Schofield answered about 9 meetings. Asked if we had to take minutes of the one meeting in October and it has been posted and on the record. Talked to the Clerk and Assistant Town Clerk. Summations attorney gave them after every meeting with discussions with Comcast. No votes. For the record, Selectmen didn't attend any of our meetings as it wouldn't be proper.

Pickard – asked for the cost of attorney's fees. TA Guerino guessed between $11,000 - $15,000. Attorney Epstein has been in communication with Atty. Troy. Atty. Troy has seen the contract, if Selectmen approve contract add pending Town Counsel.

Ford – asked if the committee had a vote to appoint a secretary. Mr. Schofield answered no secretary. He continued to lead the group and Diane Flynn continued to be Clerk in 2010.

Meier – asked if in the minutes, is approval from Cable Advisory Committee? It was done in November.

Jim Mulvey – the last meeting held was in executive session with the Selectmen. Believes vote was to accept equipment and not the whole agreement.

Ford – in executive session was a vote for recommendation. Who else is on committee: Bill Locke, Kay Donovan, Tom O'Reilly, Bob Schofield and Diane Flynn. Attendance was not recorded but most of the members were there.

Ford – asked Diane Flynn as Clerk, if there was a vote from a quorum as a committee and voted in affirmative as it is written today as the 3% the fee of the studio. Ms. Flynn has notes and the attorney notes can be filed with the Clerk.

Jim Mulvey – there are no minutes and no motions and attended one meeting no quorum and note taker left before meeting got under way.

Meier – asked if there was any urgency to vote tonight. He would like to view notes and then file with the Clerk. Mr. Schofield said this contract can wait a week and the Atty. Epstein notes can be submitted with the notes.

Ford – Final vote is important.

Jim Mulvey – there are no minutes, and not accepted and then sent to the Clerk and has not happened in over a year.

Skip Barlow – Selectmen's committee appointed to develop an agreement with Comcast. The committee appointed Mr. Schofield as the Chairman who worked with the attorney. Feels getting bogged down and not seeing the contract for the town.

Ford – interested in minutes being filed. Meier wants to review minutes.

Pickard – agrees with Mr. Barlow in that Comcast is a big business and do what they can. He asked TA Guerino of the timeframe for filing minutes. TA Guerino said 90% of this document is boiler plate. The pieces the committee through Mr. Schofield, Mr. Epstein were limited and based on discussions, there are always things you would like to see more changes. This is a pretty good contract. Keep peg access and get the non-profit running.

Meier MOVED and SECONDED by Baldwin to table until 2/7/12 for further review on information. VOTE 4-0.

e. Weary Travelers Club, Inc. update

Mr. David Robinson, applicant.
Michael Roche, Accountant

Liquor license disapproved by the alcoholic Beverage Control Commission (ABCC) for failure to comply with Mass. Tax Laws. No manager on license as the previous manager is deceased. Today applicant came to an agreement for settlement with the ABCC of arrears in the amunt of $4,062 paid in full. Copy of payment shown to Chm. Pickard.

Chm. Pickard said it was up to applicant to provide paperwork to the office of the TA. Once received, he can set up a Transfer of Manager on a Selectmen future agenda.

Chm. Pickard requests applicant provide documentation to TA Guerino's office by 2/29/12 to address. Show cause hearing if license needs to be revoked. So moved by Ford and seconded by Meier. VOTE 4-0.

f. Change in d/b/a for SADIQ Corporation

All issues on routing slip and TA recommends Board does approves d/b/a.

Ford MOVED and SECONDED by Meier to grant d/b/a from Sagamore Deli and Package Store to One Stop Convenience Store & Liquor. VOTE 4-0.

Town Administrator's report

Working with budget; Selectmen and FinCom meeting jointly for departmental budgets. If the Selectmen want further discussion with Department Heads before warrant, give him sufficient time to put onto an agenda.

FinCom Chm. Ford offer of any Selectmen questions through joint meetings to distribute between the Board members.

TA Guerino ribbon cutting of inaugural run of bus service. Last to have fixed bus route for residents. Running on an hourly schedule. Schedules posted and reviewed every 3 months. If not at a stop, flag-stop service. Chm. Pickard commended TA Guerino.

Selectmen's business

a. Signing of Warrant for Primary

Meier MOVED and SECONDED by Baldwin to sign the Warrant for the Primary. VOTE 4-0.

Vote Board participating by Remove Access

Possible board member participate in a meeting. Certain requirements. Members of public body shall be clearly audible, quorum of body. Can vote provided board votes to participate for public access.

Meier – asked if this is a policy. It is an adoption of Commonwealth regulation.

Meier MOVED and SECONDED by Ford to adopt Chapter 30A Section 20D 940 CMR 29.10. VOTE 4-0.

Meier - Bourne Rehab Schedule. Tablets received and will decrease the packet size.

Ford – Attended the Landfill Working Group; meeting with TA Guerino; meeting with Cheryl Campbell with tablet; attended joint meeting with FinCom.

Chm. Pickard – Attended pre-proposal RFP meeting of the Landfill Working Group. Schofield, Redman and Weir will do evaluations of technologies while Board of Health (BOH) will review certain aspects to get best "bang for the buck" with regard to leasing space at the ISWM facility. TA Guerino said money in access of in community host will go into the Town side and not the enterprise side. Pickard also attended joint meeting with FinCom on various budgets. Request to add future agenda discussion relative to the TA contract. Board to negotiate extension of 1-year contract; negotiate a new contract; or the Board has the option to not review and advertise position. Pickard also requested to add TA Review before the contract is up. Pickard also asked TA Guerino approximately how many articles on the Warrant. TA Guerino said approximately 20.

Meier – DPW working group to report before the Selectmen 3/6/12.
More than 100 days, came forward with a petition, but pretty close and spend $13,000 for open seat.

Adjourn
Meier MOVED and SECONDED by Ford to adjourn. Meeting adjourned at 9:50 pm. UNANIMOUS VOTE.

Respectfully submitted,
Lisa Groezinger, sec.