

***Wellfleet Selectboard  
Hybrid Meeting: Zoom ~ 715 Old King's Highway  
Tuesday February 7, 2023; 7pm  
Meeting Minutes***

**Members Present:** Ryan Curley, Chair; Michael DeVasto, (virtually); Vice Chair; Kathleen Bacon, Barbara Carboni, John Wolf (virtually)

**Others Present:** Richard Waldo, Town Administrator; Rebekah Eldridge, Executive Assistant; Stephen Pickard, Karen Johnson, Ross Scherma, Trudy Vermehren, Culley Shultz, Eric Bremicker, Evan Bergman, David Mead-Fox, Merrill Mead-Fox, Will Sullivan, Harbormaster, Chris Allgeier, Chair of The Dredging Task Force; Kathleen Walker, Gregg Corbo, KP Law; Karen Johnson, Chief Michael Hurley, Police; John Cirello, Attorney for Pickard; Helen Miranda Wilson, Lili-Ann Green, John Mankevetch, Shellfish Department, Curt Felix

Chair Curley called the meeting to order at 7:03pm

**I. *Announcements, Open Session and Public Comments***

**Note:** Public comments must be brief. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.

Chair Curley announced that there was an opening on the Planning Board due to a member no longer attending the meetings and due to the charter, he is no longer a member.

**II. *Consent Agenda***

**A.** Appoint Lawrence Marschall to the Wellfleet Cable Advisory Committee ~ application received January 18, 2023

**B.** Approval of Class II License ~ Wellfleet Service Center ~ Slaibi Enterprises, Inc.

**Chair Curley Moved; Board Member Carboni Seconded; and it was voted to approve the consent agenda with no objections.**

**Roll Call Vote: 5-0**

**III. *Employee Matters***

**A.** Appoint Jack M. Poska as a full-time officer for the Wellfleet Police Department ~ Chief Michael Hurley

Chief Hurley spoke to the board regarding Poska and gave the board information o vacancies that will needed to be filled due to circumstances beyond his control.

Chief announced to the board the new full time officer Jack M. Poska, giving his college background information and stated that Poska will have a full degree when he arrives to Wellfleet.

**Chair Curley Moved; Board Member Seconded, and it was voted to approve the appointment of Full-Time police officer Jack M. Poska for the Wellfleet police department with the conditions specified by the Wellfleet Police Department**

**Roll Call Vote: 5-0**

**IV. *Public Hearings ~ Board Member DeVasto recused himself from all shellfish hearings.***

- A.** Application for Shellfish Grant license #95-15 consisting of 0.92 acres on Egg Island to Karen Johnson

Johnson came before the board; Chair Curley spoke to the license and Curley stated she met all the requirements.

**Chair Curley moved; Board Member Carboni Seconded, and it was voted to approve the application from Karen Johnson for shellfish grant license #95-15 consisting of 0.92 acres on Egg Island, which she was selected for in a lottery December 20, 2022.**

**Roll Call Vote: 4-0-1**

- B. Hearing Continued from January 31, 2023, ~** Application received on January 3, 2023, for grant license extension #2000-2 ext on Egg Island~ Stephen, Iris and Benjamin Pickard

Pickard came before the board with his attorney, Corbo spoke to the board giving his opinion about the maps that the board and shellfish constable were using for their information. He explained that there are questions about Area 1; he stated that it was his opinion that a survey needs to be conducted by a licensed surveyor to get the exact locations and lines so the regulations can be redone. He continued that once the lines are more definitely stated the applicants can re-apply for the grant extension. Attorney Cirello spoke to the board about approving the grant license, and suggested the board approve it tonight, instead of waiting for a regulation that no one agrees on.

Chair Curley stated that because this public hearing hasn't been advertised as a change in regulations that item can't be addressed at tonight's meeting. He agreed that the regulations needed to be changed. He stated the hope is to have a new regulation, by the end of April 2023. Carboni spoke to the board and Pickard that she feels the applicant should withdraw the application without prejudice and then reapply when the regulations are changed. Corbo agreed with Carboni and stated all the applicants should withdraw without prejudice and then reapply once the regulations have changed. Bacon stated she didn't want to create precedent where the board says yes to one license and no to another. The board discussed this at great length and Corbo stated again that if the board was to vote on this today, they deny it but if they postponed it and they could decide to rewrite the regulation. Chair Curley stated that he has no issue granting the extension, but recognized the importance of the need to change the regulation. Corbo stated in his opinion that he feels the board could continue the hearing until April. Wilson spoke to the board regarding what the shellfish constable stated at the last meeting that if he withdrew his application without prejudice, he wouldn't lose his place in line for this grant extension.

**Chair Curley moved; Board Member Wolf Seconded; and it was voted to continue the public hearing for grant extension #2000-2 ext. on Egg Island received from Stephen, Benjamin, and Iris Pickard until April 4, 2023, at 7pm.**

**Roll Call Vote: 4-0-1**

- C. Application for Shellfish Grant License #95-16 consisting of 0.92 acres on Egg Island to Ross Scherma

Chair Curley spoke to Scherma about his application and asked if he spoke with the shellfish constable. He stated that he wouldn't mind doing this. He agreed to withdraw his application without prejudice until the new regulation was written.

**Chair Curley Moved; Board Member Wolf Seconded; and it was voted to accept the withdrawal without prejudice of the application for grant license #95-16 from Ross Scherma, for which he was selected in a lottery on December 20, 2022.**

**Roll Call Vote: 4-0-1**

V. ***Licenses***

- A. Request from Trudy Vermehren, The Fox and Crow Inc. To serve alcohol on Sundays beginning at 10am instead of 12 noon.

Chair Curley Called up Trudy to come before the board. She spoke to the board requesting a start time to serve alcohol on Sunday's at 10am instead of 12pm.

She stated she knew the selectboard was the licensing authority. Carboni spoke to the board stating she had section 33B of chapter 138 which states that the town has adopted this statute? Waldo stated he didn't know, and looking at the policies the town has adopted Mass General Law 138 but he didn't see if the town has adopted this specific law. He stated he cannot state that the town has ever adopted this. He would need to go to the town clerk and see if the town had ever adopted this regulation. Waldo stated in 2016 the regulations were updated and stated it identifies the laws but not this specific law. Carboni spoke to Vermehren stating she would be willing to approve the application with the conditions that the town find out if the general law was passed.

Bacon stated that she was uncomfortable with this request due to the fact that there could be an overindulgence of a customer on a Sunday morning and if there were an accident the town would be liable. Chief Hurley found that on a voice vote at the annual town meeting in April of 2011 chapter 138 Section 33B was approved.

**Chair Curley Moved; Board member Carboni Seconded; and it was voted to approve the Fox and Crow, Inc to begin serving alcohol on Sundays beginning at 10am For brunch service.**

VI. ***Use of Town Property***

- A. New England Endurance Events ~ Kathleen Walker ~ June 17, 2023, 5am-11am, Wellfleet Sprint Triathlon; September 16, 2023, 5am-12pm ~ The WTP Multistage Race ~ See Packet for full details and breakdown.

Walker spoke to the board, and stated her colleague would be at the microphone to answer any questions. Chair Curley had some questions regarding both events. Public roads would be used for the race in June. The September race would be using established foot paths, dirt roads in the pond area and some small areas of public roads. Bacon had some issues with the foot paths being used. Walker gave a full breakdown of the race and what the town could expect from that race.

**Chair Curley Moved; Board Member DeVasto Seconded; and it was voted to approve New England Event to hold the Wellfleet Sprint Triathlon on**

**June 17, 2023, from 5am to 11am using Long Pond parking lot, grassy area, Long Pond Rd., Lawrence Rd. Gross Hill Road, Ocean View Dive and the Elementary School Parking Lot, and the WTP Multi Stage Race on September 16, 2023 from 5am to 12pm using unpaved roads trails on Long Pond Rd., Gull Pond Rd. Cahoon Hollow Rd, and the Elementary School Parking Lot and field. For a fee of \$800 per event.**

**Roll call Vote: 5-0.**

Baker's Field Pavilion ~ Friday September 8, 2023; 3:30pm-10:00pm ~ Rehearsal Dinner Clambake ~ Culley Schultz & Eric Bremicker. Both Schultz and Bremicker were on the meeting. They stated that they would like to use the pavilion for their rehearsal dinner the night before their wedding for 30 people. Bacon requested that the board increase the fee for the applicants.

**Board member Bacon Moved; Board Member Wolf Seconded; and it was voted to approve the use of Baker's Field Pavilion to Culley Schultz and Eric Bremicker on Friday September 8, 2023 from their rehearsal dinner, from 3:30pm to 10:00pm for a fee of \$220. The applicants are to be responsible for working with the recreation director for the use of the pavilion and is responsible for their own portable toilets and trash and recyclables. The area is to be left the way it was before the event and to the satisfaction of the recreation director.**

**Roll Call Vote: 5-0**

- B.** Various locations in Wellfleet for a small film ~ Evan Bergman ~ April 23, 2023 – May 19, 2023. ~ Please see packet for full list.

Bergman was on the meeting and explained to the board what he was looking to do. He stated he would be making a small independent film and would like to use public sidewalks.

**Board Member Bacon Moved; Board Member Carboni Seconded; and it was voted to approve the use of Old Wharf Bay, Loagy Bay Beach, tennis courts and sitting bench across the street in public parking lot, Left bank gallery side walk in front of the gallery, King Philip Road Parking Lot and beach to Even Bergman for a small film from April 23, 2023 through May 19, 2023 for a fee of \$600 and all parcels of land be cleaned up to the satisfaction of the DPW director with the condition of working with the DPW director and Police department.**

**Roll Call Vote: 5-0**

## **VII. *Board/Committee Appointments and Updates***

- A.** Building Codes Local Option Specialized Code ~ David Mead-Fox

Mead-Fox was on the meeting with the updated codes that were questioned and discussed at the meeting on the 24<sup>th</sup> of January. HE spoke to the board as an Energy and Climate Action Committee Member. He went through the paperwork that he submitted in the boards packet for this meeting.

The board discussed these codes and concerns they had. Mead-Fox explained the changes to the board and the adoption of these codes. They discussed this article that Mead-Fox has requested the board put on the spring town meeting warrant as rafted and discussed at tonight's meeting. The board will investigate this further and be willing to place this article on the warrant.

**Chair Curley Moved; Board Member Bacon Seconded, and it was voted to place the Energy and Climate Action Committee's article for the adoption for the state specialized code and bylaw as drafted by the committee on the Annual 2023 Town meeting warrant**

**Roll Call Vote: 3-2 (DeVasto and Wolf voted no)**

**B. Cape Cod National Seashore Advisory Commission ~ NSP**

Chair Curley stated this was not to appoint members to the advisory commission at tonight's meeting but to acknowledge the receipt of the letter from the National Seashore. Green spoke to the board about what this commission and why it was needed for the outer cape. Chair Curley agreed this commission was needed. Chair Curley asked anyone who was interested in applying to return their application to the town clerk. The Selectboard is not the appointing authority, but they can nominate someone. Bacon questioned as to why this hasn't reached an agreement.

**VIII. Business**

**A. The Grateful Mind, 15 Bank Street; discussion with selectboard regarding his current license and the final steps that are required. ~ Jason Robicheau**  
Waldo spoke to the board stating that the applicant has withdrawn his application for tonight's meeting and will come before the board when they have come to an agreement for the Host Community Agreement. Bacon questioned why this is such an issue as Robicheau was the first applicant for a host agreement.

**NO ACTION WAS TAKEN**

**B. Dredging and Mitigation Update ~ Chris Allgeier, chair of Dredging Task Force**  
Allgeier came to the front table. He informed the board of the recent discussions in January and February regarding the mitigation plan with the objective to get a permit. He gave an update on the discussions and who he was working with throughout the town. He stated there was a lot of outreach to the shellfish community to find out what would be acceptable to them as far as dredging. He explained what the shellfish community would like to do and what the Army Core of Engineers would like to do to improve the areas south. He discussed good faith and what it means to the Army Core. The board had a few questions about bids and when they would go out to the public. It was questioned as to how long it would take to get a mitigation agreement. Allgeier stated he is optimistic. The board continued to discuss the dredging. Felix spoke to the board regarding the dredging and gave them details on what was being asked of the town.

**Chair Curley Moved, Board Member Wolf Seconded, and it was voted to support the dredging mitigation plan presented in concept with the request to the Army Core of Engineers to consider commercial and harvesting.**

**Roll Call Vote: 5-0**

**C. Inclusionary Bylaw Amendment ~ Chair Ryan Curley**

Chair Curley stated they had town counsel comments back and the board needed to discuss the comments and then send this to the planning board for a public hearing. Carboni had some questions regarding changing definitions. They board discussed Murrays comments on the bylaw. The board discussed the

changes that Murray made and changes they felt were feasible. DeVasto suggested to the board that they have a working meeting so they can solely focus on the amendment.

**D. Letter Thanking Martha Craig ~ Chair Ryan Curley**

**Board Member Bacon Moved; Board Member Wolf Seconded, and it was voted to approve the letter as amended to Martha Craig thanking her for her service to the Herring River Project.**

**Roll Call Vote: 5-0**

**E. The Opening and Closing of the Herring River ~ Nancy Civetta, Shellfish Constable**

**Chair Curley Moved; Board Member Seconded; and it was voted to open the Herring River as of sunrise on Wednesday March 15, 2023 or when the town receives written approval from the Mass Division of Marine fisheries that it meet water quality standards for the safe harvest of shellfish and can be opened, and to close it at sunset on Thursday August 31, 2023, or as otherwise directed by the Mass. Division of Marine Fisheries.**

**Roll Call Vote: 5-0**

**IX. *Selectboard Reports***

Bacon announced that she had been asked to be a liaison for the board of health so she could update them on the Maurice's Campground Planning Committee. The board had no issues with this appointment.

**X. *Topics for Future Discussion***

95 Lawrence Road naming to be on an upcoming agenda.

**XI. *Vacancy Reports***

**XII. *Minutes***

**A. January 24, 2023 – Chair Curley Moved; Board Member Bacon Seconded; and voted to approve the minutes of January 24, 2023, as drafted.**

**Roll Call Vote: 5-0**

**B. January 31, 2023 ~ Board Member Bacon Moved; Board Member Wolf Seconded; and it was voted to approve the minutes as drafted**

**Roll Call Vote: 4-0-1 (Chair Curley Abstained)**

**XIII. *Adjournment***

**Chair Curley Moved; Board Member Bacon Seconded; and it was voted to adjourn.**

**Roll Call Vote: 5-0**

**Meeting adjourned: 10:20pm**

***Public Documents:***

*Application from Lawrence Marschall to be on the Wellfleet Cable advisory Committee.*

*Jack M. Poska paperwork to be appointed as a full-time officer.*

*Shellfish Hearing paperwork and maps*

*Letter from Trudy Vermehren regarding Sunday Liquor License*

*New England Endurance application for use of town property*

*Application for use of town property, Baker's Pavilion*

*Application for use of town property Evan Bergman*

*Building Code paperwork*

*Letter from the National Seashore*

*Approve February 23, 2023 \*\*\* A full recording of this meeting can be viewed on the town's website \*\*\**

*Dredging update documents*

*Inclusionary Bylaw Amendment*

*Letter to Martha Craig*

*Vacancy Report*

*Meeting Minutes: January 24<sup>th</sup> & 31st*