



**Wellfleet Board of Selectmen
Minutes of April 11, 2017
Wellfleet Senior Center**

Present: Selectmen Dennis Murphy, Chair, Helen Miranda Wilson, Janet Reinhart, Berta Bruinooge, Jerry Houk; Town Administrator Dan Hoort, Assistant Town Administrator Brian Carlson;

Chairman Murphy called the meeting to order at 7 PM.

Announcements, Open Session and Public Comments

- ☐ Chairman Dennis Murphy recognized outgoing member Berta Bruinooge and thanked her for her service on the Board. Ovarions by all attending the meeting in recognition of Bruinooge's service.
- ☐ Wilson announced that the Social Security Administration will host temporary satellite locations for in Orleans and Provincetown and directed interested parties to check the news section on the Town's web site for details.
- ☐ Hoort announced that Amnesty Day will be on April 22 from 8 am to 2 pm at the Transfer Station.
- ☐ Police Chief Ron Fisette announced that the old police station is officially closed and the Police Department is currently operating from the temporary facility.
- ☐ Jerry Houk announced that the Library will be closed on Easter Sunday, 4/16 and Patriot's Day, 4/17.

Murphy opened the public hearings at 7:05 pm.

Public Hearing: Transfer Annual Wine and Malt Beverages License from Wellfleet Village Center, Inc. to Slaibi Enterprises, Inc.

The owner of the Slaibi Enterprise and the current owner of Wellfleet Village Center were present and requested approval of the request to transfer Annual Wine and Malt Beverages License from Wellfleet Village Center, Inc. to Slaibi Enterprises, Inc.

MOTION 217-293: Reinhart moved and Bruinooge seconded to approve the transfer of the Annual Wine and Malt Beverages License from Wellfleet Village Center, Inc. to Slaibi Enterprises, Inc. The motion passed 5-0.

Public Hearing: One Day Wine & Malt License for Cape Cod Bay Challenge on August 12, 2017 from 3 pm to 10 pm.

Jody Craven requested the one day liquor license for Cape Cod Bay Challenge. Reinhart asked for the recommendation of the Recreation Director. Becky Rosenberg confirmed that her concerns have been addressed and she has no issues with the event.

MOTION 217-294: Reinhart moved and Bruinooge seconded to vote to approve One Day Wine & Malt License for Cape Cod Bay Challenge on August 12, 2017 from 3 pm to 10 pm. The motion passed 5-0.

Public Hearing: Two Day Wine & Malt License for SPAT on October 14 and 15, 2017 for OysterFest
Michele Insley, Executive Director was present to answer Selectmen's questions.

MOTION 217-295: Wilson moved and Bruinooge seconded to vote to approve two-day Wine & Malt License for Wellfleet SPAT OysterFest on October 14 and October 15, 2017 from 10 am to 5 pm. The motion passed 5-0.

Public Hearing: Application for underground fuel storage license at Cumberland Farms 2586 State Highway (J. Veara, Attorney for applicant).

Attorney Jaimie Veara representing Cumberland Farms requested the Board's approval of a license for

underground fuel storage tanks for Cumberland Farms at 2586 State Highway. He said that the Fire Chief had approved the application. Veara stated that the focus of the Hearing was the application for a license to permit fuel tanks, and only that. He went into the details of the proposed fuel tank installation, including the monitoring devices and alarms that were to be installed in case of many types of issues under ground. and had a map of the plans displayed on an easel to support his explanation. Dan Silverman, the retired Wellfleet Fire Chief but speaking as a citizen, urged the Selectmen to take into consideration the overwhelming opinion of the Town's residents that there should not be another gas station in that spot. He said that he has an issue with having a business expand in an already busy and congested area, where another gas station does not seem to be needed. David Agger, a resident who lives and runs a business nearby, did not favor approving the fuel tank licenses and concurred with Dan Silverman. Mark Gabriele had a question about the capacity of the tanks and asked if there would be any potential insurance risk and increased insurance premiums. Attorney Veara did not have an answer on the insurance question, but said that the tanks were to be of a standard size. Brent Harold wanted to know if the Board has any legal basis for turning this request down. He said that there is no public support for having another gas station in this area. Elspeth Hay wanted to know if Cumberland Farms would be making electric vehicle chargers available. Veara said that electric vehicles chargers are not now part of this proposal, but could be considered in the future. Theresa Parker wanted to know about the impact on public health safety because of the increased presence of fumes as a result of there being an additional gas station. Geraldine Ramer, a resident who lives nearby, also did not support approval of this request. Attorney Veara addressed concerns raised by Silverman and Agger by saying that a traffic study had been done and it determined that it has no impact on traffic congestion. It was pointed out that it had been done in the off-season. He urged the Board to be focused on the public safety issue. Murphy asked Police Chief Fisette about data for traffic accidents at this intersection. Police Chief Fisette confirmed that this intersection has been identified as one of the highest accident areas in Wellfleet, and that there had been a recent accident there, but could not tie accident occurrences specifically to Cumberland Farms. Reinhart wanted to know if it was legal to cross over the double yellow lines in this area because of double yellow lines. Fisette answered that there is no issue with crossing yellow lines at this intersection. Wilson noted that Veara's description of the monitors that would be in place to pick up on any malfunction in the fuel tanks was evidence that they could fail. And that, indeed, sooner or later all equipment does fail and does need repair. She said that ground water in Wellfleet generally moves west and that Duck Creek is just to the west of the proposed fuel tanks. Another wetland abuts the north side of the Cumberland Farms property. She noted the dense development in the area and that there are already two gas stations with fuel storage tanks right across the street, so additional tanks will only compound the hazard and the potential for dangerous conditions. She did not support approving the request for additional fuel storage tanks. She highlighted the fact that there were already three gas stations in Wellfleet and that huge Cumberland Farms gas stations are located just a few minutes away, in Eastham and Provincetown. She said that once a gas station is approved, it is a grant running with the land in perpetuity, regardless of ownership transfer. Houk expressed concerns about the increase of traffic and wanted to know when construction is planned. Veara said that the construction would not happen in the spring or summer. Houk wanted to know how deep the tanks will be and it was confirmed that the bottom of the tanks will be 12 to 14 feet down. Bruinooge also did not support an additional gas station at this location based on concerns for increased traffic and possible leaks. Reinhart wanted to know if there was a drainage structure to prevent fuel leakage contaminating the ground water. The engineer explained the nature of the catch basins that would be in place. Veara said that plans had been submitted on March 24, 2017. The Board members said that they have not gotten the plans in their meeting packets. Murphy said that in 1966 there were six gas stations. He added that in Wellfleet in the summer, there can be 5-minute waiting at any one of the gas stations. He was not as concerned about the tanks creating hazardous conditions because these tanks will be newer than any others in Wellfleet. Wilson disagreed with Murphy about the waiting.

The Board discussed whether to continue the Hearing to a future meeting or decide it at this time.

MOTION 217-296: Bruinooge moved and Reinhart seconded not to approve an Underground Fuel Storage License for Cumberland Farms, Inc. at 2586 State Highway, Route 6, Wellfleet, MA 02667. The motion passed 3-2. (Murphy and Houk). Houk clarified that he voted “No” because he had not studied the plans, not because he supports the gas station.

Public Hearing: Beach Rules and Regulations – amendment of section 4, Parking

Community Services Director Suzanne Grout Thomas requested the amendment of the Beach Rules and Regulations and explained why.

MOTION 217-297: Wilson moved and Reinhart seconded to vote to amend the Beach Rules and Regulations¹, Section 4 – Parking as printed. The motion passed 5-0.

The public hearings were completed at 8:11 pm.

Licenses: Weekday Entertainment License: Bocce Italian Grill and Wellfleet Harbor Actor’s Theater

The manager of Bocce Italian Bar and Grill was present to address Selectmen’s concerns about noise levels because of weekday live entertainment and confirmed that the live entertainment will not go past 10 pm.

MOTION 217-298: Reinhart moved and Bruinooge seconded to vote to approve Weekday Entertainment License for Bocce Italian Grill and Wellfleet Harbor Actor’s Theater (WHAT). The motion passed 5-0.

Appointments/Reappointments: Thomas Slack to Local Comprehensive Plan Working Group

Thomas Slack expressed his interest to serve on the Local Comprehensive Plan Working Group. Murphy confirmed the number of the members on the group. Brian Carlson said that this appointment will be an even number. Suzanne Grout Thomas said that decisions have been unanimous to date and there have been no votes as far as she can remember. Bruce Hurter supported the appointment of Slack

MOTION 217-299: Reinhart moved and Bruinooge seconded to vote to appoint Thomas Slack to the Local Comprehensive Plan Working Group. The motion passed 5-0.

Use of Town Property: Wellfleet SPAT, Inc. to use various Town property for OysterFest 10/14 & 10/15

Michele Insley was available to answer questions. She confirmed that there were no significant changes to the request since last year, other than free admission on Sunday for Wellfleet residents. Discussion ensued about the fees paid by SPAT to the Town. Murphy raised concerns about the liability and the duration of the use before and after the actual event.

MOTION 217-300: Reinhart moved and Bruinooge seconded to approve the request of Wellfleet SPAT, Inc. to use various Town Property for 2017 OysterFest from Tuesday, October 10 through Tuesday, October 17, 2017 as requested. The use fee is \$3,000. Conditions as listed on the use request form. The motion passed 5-0.

Use of Town Property: Wellfleet SPAT, Inc. to use Power’s Landing and Andrew Cummings Wash-Ashore Oyster Ranch for aquaculture grant tours during summer of 2017

Michele Insley presented the request and answered Selectmen’s questions about the use request. The Selectmen found these tours to be a great idea.

MOTION 217-301: Reinhart moved and Bruinooge seconded to approve the request of Wellfleet SPAT, Inc. to use Power’s Landing Parking Lot, Mayo Beach and the Pier, Andrew Cummings, Wash-Ashore Oyster Ranch, license area 754, Pickard and other properties for a series of aquaculture grant tours on

various dates in the summer of 2017 as requested. The use fee is \$20 per day of use and conditions as listed on the use request form. The motion passed 5-0.

Use of Town Property: Cape Cod Bay Challenge, Inc. for Mayo Beach & Baker Field Tent on 8/11-13

MOTION 217-302: Wilson moved and Bruinooge seconded to approve the request of Cape Cod Bay Challenge, Inc. made by Jody Craven & Christa von der Luft to use Mayo Beach and the Baker Field Tent and tennis courts on August 11, 12 and 13, 2017 for the Cape Cod Bay Challenge event with no event fee and conditions as listed on the use request form. The motion passed 5-0.

Use of Town Property: Cape Cool to raise Earth Flag on the Town Hall flag pole, April 21-24, 2017

Elsbeth Hay was present on behalf of Harriet Korim to answer questions about the Cape Cool use of Town property request.

MOTION 217-303: Bruinooge moved and Reinhart seconded to approve the request of Cape Cool - Harriet Korim to raise the Earth Flag on the Town Hall flag pole for Earth Day, Friday April 21- Monday, April 24, 2017; with no event fee and conditions as listed on the use request form. The motion passed 5-0.

Business: Proposal for food composting plant at the Transfer Station

Elsbeth Hay gave a presentation² about the proposed pilot program and answered questions about the proposal. Discussion ensued. The Board had a mutual consensus that this is a great idea, but needed more time to review the request and get a recommendation from the DPW. Hoort said that the concerns of the DPW will be addresses and Town Officials will visit the plant at Needham to see how this type of plant is operated. The Board agreed to grant access to the Transfer Station for a site visit.

Business: Discussion of 2017 ATM Art. 39, Pleasant Point bulkhead

John Riehl and Bruce Hurter as members of the Open Space Committee and Natural Resources Advisory Board raised concerns about the deed of transfer and the need for future access. Denny O'Connell said that this amendment can be addressed with the Purchase and Sale contract, if Town voters authorize the transfer. Discussion ensued about access to the bulkhead, the status of the stairs and Town Counsel opinion on a similar matter involving Town property.

Business: Letter of endorsement from Chief Elected Official for Cultural District Application]

MOTION 217-304: Bruinooge moved and Reinhart seconded to vote to sign a letter of endorsement from the Chief Elected Official for Cultural District Application. The motion passed 4-0. (Houk stepped out).

Business: Commitment Letter for USTA Grant

Recreation Director Becky Rosenberg presented the request for support for a USTA Grant in the amount of \$20,000.

MOTION 217-305: Wilson moved and Bruinooge seconded to vote to authorize the Chair of the Board of Selectmen to sign a Commitment Letter for the United States Tennis Association Grant on behalf of our Recreation Department. The motion passed 5-0.

Business: Discussion of 2017 ATM Article 46, Safe Communities Act

Wilson expressed concerns about Article 46 – Safe Communities Act of the 2017 Annual Town Meeting and requested to find more information about this from Theresa Parker, who has been researching the issue. Parker passed handouts³ and said that there are community concerns about immigration issues together with concerns about losing Federal funding. Parker said that based on research Sanctuary Cities have not lost federal funding in the past. She discussed the difference between a “Sanctuary City” and a Safe Communities Act”; what is considered actionable based on the Federal Government; the 10th Amendment of the United States; and one exception for a withdrawal of highway funds for not enforcing the national drinking age. Police Chief Fisette

answered that in his opinion the Town does not have the potential to suffer loss of Federal funding. Based on the proposed article language and the fact that it is non-binding, Parker did not find any issues and threats to the Town.

Town Administrator's Report⁴ – no additions.

Topics for Future Discussion

- Reinhart – Volunteered to write a letter of support for the dredging of the Marina; requested turning down the heat at Town buildings; Snowplowing should be revisited; Michael Ford's request for abandoning Town road in the Great Fields subdivision should be on a future agenda.
- Houk – Wellfleet Arbor Committee should have meetings to address residents' concerns and opposition of the Town Hall trees removal. Add Wellfleet to the sign on Town Hall.
- Wilson requested scheduling Cape Light Compact special meeting soon; Urged the Board to decide on the Old COA and Old Shellfish Shack before Christmas.

Correspondence⁵ and Vacancy⁶ Report

Minutes

MOTION 217-306: Wilson moved and Bruinooge seconded to approve the minutes of February 28⁷ as amended by Wilson. The motion passed 5-0.

MOTION 217-307: Wilson moved and Reinhart seconded to approve the minutes of March 15⁸ as amended by Wilson. The motion passed 5-0.

Adjournment & Executive Session

MOTION 217-308: Murphy moved to adjourn the public meeting and not go back in open meeting at 9:45 pm pursuant to the following reasons - G.L. c. 30A, §21(a)(3), to 1. To discuss strategy with respect to collective bargaining and litigation if the Chair declares that an open meeting may have a detrimental effect on the Town's bargaining and litigating position, the Board will review the current collective bargaining status and strategy recommendations for WEA Units A, B and C and Police Officers Union; 2. To discuss strategy with respect to litigation if the Chair declares that an open meeting may have a detrimental effect on the Town's litigating position for Curran v. Wellfleet (0 West Main Street). The motion passed by a roll call vote where each Murphy, Bruinooge, Wilson, Reinhart and Houk each said "Aye".

Respectfully submitted,

Michaela Miteva, Executive Assistant

Public Records Materials:

¹ Beach Rules and Regulations Amendment

² PowerPoint for Food Composting pilot program

³ Research by Theresa Parker about Sanctuary Cities and the Town's Article 46 – Safe Communities Act.

⁴ TA Report of April 7, 2017

⁵ Correspondence report of April 10, 2017

⁶ Vacancy report of April 6, 2017

⁷ Draft minutes of February 28, 2017

⁸ Draft minutes of March 15, 2017