

**BOARD OF SELECTMEN  
REGULAR MEETING MINUTES  
MONDAY – July 9, 2018**

Members Present: Ms. Shana M. Shufelt, Chairman  
Steven J. Ouellette, Vice Chair  
Brian T. Valcourt, Clerk  
Ann E. Boxler  
Richard W. Brewer  
Timothy King, Town Administrator

Select Board Chair Shufelt called the Board of Selectmen meeting to order at 6:00 P.M. in the Westport Town Hall, 2<sup>nd</sup> floor meeting room, 816 Main Road, Westport, MA.

**Pledge of Allegiance:** The meeting commenced with the Pledge of Allegiance. Ms. Shufelt asked for a moment of silence to acknowledge the recent passing of resident Selena Howard.

**Chair's Announcement** – The chair announced that under the provisions of MGL Chapter 30A, section 20(f), the meeting was being recorded by community cable television. The website EverythingWestport.com was also recording the meeting.

**1. Acknowledgements & Recognitions**

Ms. Shufelt recognized the attendance of Edmond Beaulieu (age 102, born on May 19, 1916) and numerous descendants and read an official citation from the board congratulating him on being the town's oldest resident and awarding him custody of the gold-tipped Boston Post Cane traditionally presented to the oldest resident since the 1920s. The recognition prompted a standing ovation by those in attendance.

**2. Licenses**

**6:05 p.m.**

- a. Approval of One-Day Wine & Malt Liquor Licenses for Weatherlow Farms. Ryan Wagner was present to provide information on the six dates for which one-day licenses were being requested. **Motion** by Mr. Brewer to approve all six dates: Thursday Suppers on Aug. 23 and Sept. 27, from 5 to 8 p.m.; Field to Barn Dinners on Aug. 12 and Sept. 16, from 4:30 to 7:30 p.m.; and Floral Workshops on Dec. 1 and Dec. 2 from 2 to 5 p.m. Second by Ms. Boxler. The Board voted 3-2 in favor, with Mr. Ouellette and Mr. Valcourt opposed. After the vote, Mr. Wagner apologized to the board and the audience for his behavior at the last meeting, and explained the nature of his farm business, employing seven full-time employees in a chemical and pesticide free operation in which he has invested "millions of dollars" of his own funds. He noted that some of the farm products are donated to local food banks and food pantries.

**6:15 p.m.**

- a. Public Hearing

Request by **Bay Breeze Inc.** for approval of a Seasonal Liquor License and Common Victualler's License for 2065 Main Road.

Owner Kerian Fennelly was present with his attorney, Brian Corey Jr. The attorney began his presentation with details of the history of the building at Lees Wharf, dating back to 1833, with continuous business uses including a coal storage facility, chandlery, fish and food stores, and most recently a retail seafood sales operation. He indicated Mr. Fennelly would be selling his

company's oysters as well as seafood from other local fishermen, with both indoor and outdoor seating for customers. All consumption of food and beverages would be limited to the wharf area, with a metal gate and vegetated border installed to prevent patrons from carrying food and beverages off site. Mr. Fennelly indicated that at least one staff member would be posted outside to enforce the rule against food or beverages being consumed outside the permitted area, and supervise patrons coming and going from boats docked at the wharf.

Atty. Corey reported Board of Health approval of water source and tight tank septic system, and use of porta-johns on the wharf that will be available to the general public. There was some discussion of parking concerns by board members, with the attorney indicating plans call for eight on-site parking spaces, to be located on property long used by the public without legal permission from past or present owners. The attorney also cited Mass. case law indicating that the addition of alcohol use to a non-conforming business use does not increase the non-conformity of the property, and should not be considered as detrimental to the neighborhood. Mr. Fennelly said that the proposed business hours would be noon to 9 p.m. Tuesday through Sunday during the summer months, and noon to 7 p.m. at other times of the year; seating plan provides 36 indoor seats, and 36 outdoor seats, and there is space to dock up to 30 small boats at the wharf.

Mr. King confirmed a seasonal restaurant liquor license was available and could be issued. Building Inspector Ralph Souza said he feels that the building alterations were substantial enough to be reviewed by the Zoning Board of Appeals. Landing Commission Chair Jeff Bull cited the need to develop a comprehensive parking plan for the entire commercial wharf area, and questioned the claim that the abandoned abutment site for the old bridge was private property, feeling the town owns the site and abandoned roadway leading to it. Atty. Corey indicated he has title research showing the bridge abutment site is a "derelict landing" whose ownership reverted back to abutting landowners.

Public input at the hearing included comments from Suzanne Peck, 2041 Main Road. She cited concerns about limited parking space and submitted photos of a recent weekend event at the inn which illustrated parking issues. Former wharf owner Al Lees Jr. cited a 1963 town meeting vote giving abutters rights to the abandoned town landing, and suggested only Mr. Fennelly has legal parking rights to the site used by the Paquachuck Inn and other property owners. Point resident Charles Baron spoke in favor of the application, noting the long tradition of commercial uses of buildings at the Point. Chris Jusseaume of 1384 Drift Road also spoke in favor of the application, as did Main Road resident John Borden; 2048 Main Road resident Nancy Paull spoke in opposition, being opposed to alcohol sales at the site, expressing concerns about parking, and feeling the 72-person seating capacity was too large.

Mr. Brewer asked the applicant to consider opening the restaurant without a liquor license, but Mr. Fennelly said that would not be financially viable. Ms. Shufelt agreed that a study of public parking space in the wharf area was needed; Mr. Valcourt felt that parking would not be an issue, as more people would probably arrive by boat than by car during the peak summer months. **Motion** by Mr. Valcourt to approve both the seasonal liquor license and the common victualler's license. Second by Mr. Brewer. The Board voted 4-1 in favor, with Mr. Ouellette opposed.

b. Public Hearing



Application of Wish Come True for a one-day Liquor License on Friday September 7, 2018; Saturday September 8, 2018 and Sunday September 9, 2018 for Wine & Malt Beverages at 179 Sodom Road.

**Motion** by Mr. Valcourt to approve licenses on those dates. Second by Mr. Ouellette. The Board voted 5-0 in favor.

c. Public Hearing

Application of Holy Ghost Club for a one-day Liquor License on Saturday August 11, 2018; and a one-day Liquor License on Sunday August 19, 2018 for All Alcoholic Beverages at 179 Sodom Road. **Motion** by Mr. Valcourt to approve both dates. Second by Ms. Boxler. The Board voted 5-0 in favor.

6:20 p.m.

3. Action Items

a. Action on Retain/Return balances of past Town Meeting Articles.

**Motion** by Mr. Ouellette to retain \$4,942.71 in FY16 funds for Economic Planning & Coordination. Second by Mr. Brewer. The Board voted 5-0 in favor. **Motion** by Mr. Ouellette to return \$175.00 in FY13 funds for Capital Expense Preparation. Second by Mr. Brewer. The Board voted 5-0 in favor. **Motion** by Mr. Ouellette to return \$7,000 in Highway Surveyor Legal Fees. Second by Mr. Brewer. The Board voted 5-0 in favor. **Motion** by Mr. Ouellette to return \$136.20 in FY 19 funds for Electric Vehicle Purchase. Second by Mr. Valcourt. The Board voted 5-0 in favor. **Motion** by Mr. Ouellette to retain \$57,180.00 for LED streetlight fixture replacements. Second by Mr. Valcourt. The Board voted 5-0 in favor. **Motion** by Mr. Ouellette to return \$4,256.71 in Injured on Duty Medical Expenses. Second by Mr. Brewer. The Board voted 5-0 in favor. **Motion** by Mr. Brewer to retain \$3,909.93 in FY15 funds in the Environmental Maintenance- Town Hall account. Second by Mr. Ouellette. The Board voted 5-0 in favor.

b. Appointment of Asst. Animal Control Officers. Mr. King reported satisfactory CORI checks on the four candidates for appointment as Assistant Animal Control Officers and Animal Inspectors, and recommended they be appointed. **Motion** by Mr. Ouellette to appoint Jennifer Gouveia, Caitlin Riley, Larissa Pimental, and Rebecca Souza to the positions. Second by Mr. Valcourt. The Board voted 5-0 in favor. A member of the Animal Action Committee provided the board with guidelines for the required training of Animal Control Officers.

c. Approve hourly rate for Recreation Director position. Renee Dufour of the Recreation Commission submitted the job description for the new position, and requested approval of an hourly rate; she indicated \$38,400 budgeted in the personnel account. Mr. King suggested an employment contract be developed for the part-time seasonal position, limited to 19 hours per week and paying up to \$38,000. **Motion** by Mr. Ouellette to authorize the town administrator to negotiate a contract with those terms. Second by Mr. Valcourt. The Board voted 5-0 in favor.

d. Approve renewal Contract for Employment for James K. Hartnett. **Motion** by Mr. Ouellette to renew the employment contract with James K Hartnett as presented. Second by Mr. Brewer. The Board voted 5-0 in favor.

e. Request approval to post the vacant position for the part time clerical position in the Building Department. **Motion** by Ms. Boxler to approve posting the position. Second by Mr. Ouellette. The Board voted 4-0-1 in favor, with Mr. Valcourt abstaining.

f. Approve new aquaculture Site #5 in the West Branch of the Westport River. Director of Marine Services Christopher Leonard reported on development of the new site at the southern edge of the

Jusseume lease. The state Division of Marine Fisheries must survey the site and recommend approval before the town can authorize lease of the site, he indicated. **Motion** by Mr. Valcourt to start the state filing process. Second by Mr. Ouellette. The Board voted 5-0 in favor.

- g. Endorse revised Aquaculture License renewal to include specific language pertaining to renewals from the State for Gooseberry Site #3 (License granted by the Select Board on May 29, 2018 to John P. Fennelly of 658 Old Harbor Road). Mr. Leonard recommended the board accept the revised language for the aquaculture license renewal for Gooseberry Site #3; that license being granted by the board of May 29, 2018 to John P. Fennelly of 658 Old Harbor Road. **Motion** by Mr. Valcourt to approve the revisions. Second by Mr. Ouellette. The Board voted 5-0 in favor.
- h. Approve request from the Westport River Watershed Alliance for use of the Westport Town Beach and Cherry & Webb Conservation Area for summer science programs running from July 9 through August 17 from 9-1 each week Monday through Friday. **Motion** by Mr. Valcourt to approve the WRWA use of Westport Town Beach and the Cherry & Webb Conservation Area for summer science programs, Monday through Friday from 9 a.m. to 1 p.m. from July 9 through Aug. 17. Second by Mr. Ouellette. The Board voted 5-0 in favor.
- i. Planning Board request to review submittal by Hix Bridge Solar LLC for a 4.8 megawatt solar energy system on the Westport Landfill on Hix Bridge Road, Assessor's Map 54, Lot 40A. Mr. King noted the board had approved the solar farm lease proposal in 2016. **Motion** by Mr. Ouellette to support the plans before the Planning Board. Second by Mr. Brewer. The Board voted 5-0 in favor. It was requested that the site plans also be sent to the Energy Committee for comment.
- j. Approval of Indemnity Agreement with Westport Land Conservation Trust for mobility mats on Beach Avenue. Ms. Shufelt noted that town Counsel had been consulted, and asked for authority to negotiate agreement absolving the WLCT of some liability. **Motion** by Mr. Ouellette to approve negotiation of a contract with some additional liability for the town. Second by Mr. Valcourt. The Board voted 5-0 in favor
- k. Request from the Board of Assessors to approve an extension of the contract term to June 30, 2019 for Ellis Withington, Contractor. **Motion** by Mr. Ouellette to approve the contract extension as submitted to June 30, 2019. Second by Mr. Valcourt. The Board voted 5-0 in favor.
- l. Approve request from Alexander Rockwell for permission to film a movie in areas of Westport this summer. Board members expressed concerns about the lack of specific locations in the request, and requested more information from the applicant.

#### 4. Appointments and/or Resignations

- a. Approval of Town employee annual appointments to other functions, committees and boards:

**Motion** by Ms. Boxler to approve appointment items items 1-4. Second by Mr. Valcourt. The Board voted 5-0 in favor.

- 1) Steven Ouellette: Bike / Walking Path Committee (1-year term); Cable Advisory Board (1-year term); Safety Regulation Board (1-year term); Southeastern Regional Planning and Economic Development District – Selectmen Representative (2018-2019); Tax Incentive Program Committee (1-year term); Westport Economic Development Task Force (1-Year Term).
- 2) Brian Valcourt: Buzzards Bay Action Committee (1-year term); Southeastern Regional Transportation Authority Selectman Representative (1-year term).
- 3) Ann E. Boxler: Council on Aging (3-year term); Westport Affordable Housing Trust (2-year term).
- 4) Richard W. Brewer: Capital Improvements Planning Committee (1-year term); Energy Committee (1-year term).



- 5) Timothy J. King: Capital Improvements Advisory Board (1-year term); Westport Economic Development Task Force (1-Year Term). **Motion** by Mr. Valcourt to approve Timothy King appointed to the Capital Improvements Planning Committee for a one-year term, and appointed to the Westport Economic Development Task Force for a one-year term. Second by Mr. Brewer. The Board voted 5-0 in favor.
- 6) James K. Hartnett: Buzzards Bay Action Committee (1-year term); Capital Improvements Advisory Board (Alternate to Administrator - 1-year term); Southeastern Regional Transportation Authority Selectmen Alternative Representative (1-year term); Joint Transportation Planning Group Representative (1-year term); Westport Economic Development Task Force (Alternate for Town Administrator 1-Year Term). **Motion** by Mr. Ouellette to approve. Second by Mr. Brewer. The board voted 5-0 in favor.
- 7) Christopher Leonard: Parking Enforcement Officer (1-year term). **Motion** by Mr. Ouellette to approve. Second by Mr. Valcourt. The Board voted 5-0 in favor.
- 8) Lt. Paul Holden: Sworn Liquor Licensing Agent to the Board of Selectmen (1-year term). **Motion** by Mr. Valcourt to approve. Second by Mr. Ouellette. The Board voted 5-0 in favor.
- 9) Re-appointment of the Open Space Committee – 1 year term: Chris Capone (Conservation Representative); Christopher Gonsalves (Highway Representative); Maurice E. May (Board of Health Representative). **Motion** by Mr. Valcourt to approve. Second by Mr. Ouellette. The Board voted 5-0 in favor.
- 10) Re-appointment of Brad C. Brightman: Tax Incentive Program Committee (1-year term). **Motion** by Mr. Brewer to approve Second by Mr. Ouellette. The Board voted 5-0 in favor.
- b. Request from Beckey Leverett and Erik Reis for re-appointment to the Recreation Commission (3-year term). **Motion** by Mr. Ouellette to re-appoint Becky Leverett and Erik Reis for three-year terms. Second by Mr. Valcourt. The Board voted 5-0 in favor
- c. Request from Maury May and Elizabeth Collins for re-appointment to the Economic Development Task Force (1-year Term). **Motion** by Mr. Ouellette to re-appoint Maury May and Elizabeth Collins to the Economic Development Task Force for one year terms. Second by Mr. Brewer. The Board voted 5-0 in favor.
- d. Request for re-appointment of Monica Faria and Keith McDonald to the Bike/Walking Path Committee (1-year term). **Motion** by Mr. Ouellette to re-appoint Monica Faria and Keith MacDonald to the Bike/Walking Path Committee for one-year terms. Second by Mr. Brewer. The Board voted 5-0 in favor.
- e. Request from Chief Pelletier for re-appointment of Michael Jacques as Full Time Police Officer effective 7-24-18. **Motion** by Mr. Valcourt to re-appoint Michael Jacques as a full time police officer, effective 7-24-18. Second by Mr. Ouellette. The Board voted 5-0 in favor.

## 5. Discussion Items

- a. Underwood Farms complaint. Ms. Shufelt reported receiving several letters of complaint about the Underwood Farms development. Building Inspector Souza detailed some history, noting 2007 approval of five duplex units and five triplex units, with development slowed by economic conditions and land disputes; one duplex and one triplex have already been built. Now, development is starting up again, with two duplex units being built. No stop work order has been

issued, but he is declining inspections from now on as the Zoning Board of Appeals has been asked to review the special permit. Town counsel has been asked to review the matter of defining “habitable rooms” by old or new standards; Attorney Mark Levin, representing developer Richard Leblanc, said he has also discussed those issues with town counsel. Underwood Farms resident Norm Belanger spoke of Mr. Leblanc being a reputable contractor who delivered a quality home; resident David P. Sunderland submitted a written letter detailing his concerns about the development. Mr. King was assigned the tasks of coordinating town counsel’s discussions with Mr. Souza, and keeping the board updated on the matter.

b. Tiverton Casino Update. See item 6 below.

**6. Town Administrator Report**

Mr. King presented his report dated June 22, 2018, reporting the expected opening of the Tiverton Casino in September, and possible traffic issues related to the new attraction; the completion of repairs to Hix Bridge; receipt of nine proposals for LED streetlight project; and the successful updating of the town’s Open Space and Recreation Plan with the assistance of the Westport Land Conservation Trust. Mr. King also noted receipt of an email from the company proposing culvert replacements on Wildberry Way so the road will meet town standards for acceptance; and provided monthly reports from various departments in writing.

**7. Minutes**

June 25, 2018. None were available for approval.

**8. Selectmen Liaison Committee Reports**

Nothing to report.

**9. Boards/Committees/Commissions Vacancy List**

**\*\*Committee members with terms that ended in June should advise if they wish to continue\*\***

Agricultural Commission Alternate – 1 vacancy

Agricultural/Open Space Preservation Trust Fund Council – 2 vacancies (Agricultural Commission and Capital Improvement Planning Committee “CIPC”)

Board of Appeals – 2 vacancies (1 Regular & 1 Associate)

Capital Improvements Planning Committee – 2 vacancies (Business & Construction Representatives)

Community Preservation Committee – 1 vacancy (Conservation Representative)

Educational Fund Committee – 1 vacancy

Fence Viewers – 1 vacancy

Fish Commissioner - 1 vacancy

Historical Commission – 1 vacancy

Open Space Committee – 4 vacancies (1-At-Large; 1 Recreation, 1 Westport River Watershed Alliance Rep and 1 Disabilities Committee)

Personnel Board – 2 vacancies

Recreation Commission – 1 vacancy

Tax Incentive Program Committtww (1 vacancy – Westport Economic Development Task Force “WEDTF” Representative)

Westport Citizen’s Betterment Committee – 1 vacancy

Westport Cultural Council – 2 Vacancies

Westport Economic Development Task Force – 1 vacancy

**10. Board Members Suggestions for Future Agenda Discussion / Action**

Ms. Shufelt suggested several possible items for the July 25 agenda, most notably discussion of a possible campground acquisition study committee. Mr. Brewer requested more information on the audit report, and Mr. King said he would try to schedule the audit firm for the July 25 meeting.



**11. Topics not reasonably anticipated forty-eight (48) hours in advance of the meeting**

**12. Question & Answers.**

Resident input: Cynthia Anderson of Gifford Road came to the microphone to discuss the longstanding storm water runoff and drainage issues at Westport Elementary School. She alleged that erosion due to runoff is continuing, and drainage pipes are sending water onto her property and that of other neighbors. She also complained that work at the middle school site is reaching right up to her property line, causing new problems. Ms. Shufelt explained the owner's project manager for the school project has been asked to look at the drainage issues and see if they might be addressed as part of the school construction work; any additional funding would require a town meeting vote, a slow process that will take some time, she noted. Ms. Anderson also asked if a proposal to purchase the nearby Westport Campground was being developed; Ms. Shufelt indicated that discussion of establishing a study committee to look at a possible municipal acquisition offer would be an agenda item at a future BOS meeting, and meetings with abutters would be scheduled if any proposals were considered.

**13. Executive Session –**

At 8:37 p.m., motion by Mr. Ouellette to convene into executive session, pursuant to the provisions of MGL c 30A section 21(a) to :

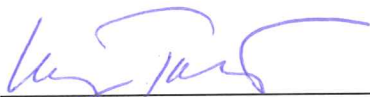
- a). Conduct collective bargaining session with Westport Police Association (2).
- b). Discuss strategy with respect to litigation – Howe vs. Westport Wineries; Pereira vs. Levesque. Chair declares that an open meeting may have detrimental effect on the litigating position of the public body (3).
- c). Discuss strategy with respect to collective bargaining – Local Advantage for Workers Union (LAW) (3).
- d). Approve Executive Session Minutes of June 25, 2018.

Second by Mr. Brewer. The roll call vote was 5-0 in favor: Richard Brewer, aye; Steven Ouellette, aye; Brian Valcourt, aye; Ann Boxler, aye; and Shana Shufelt, aye.

**Adjournment**

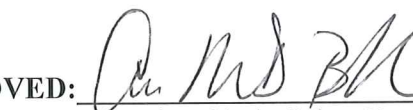
The Board voted to end the Executive Session by roll call vote and adjourn the open meeting at 9:45pm.

Respectfully submitted,



R. Barboza, Recording Clerk and  
Lucy Tabit Administrative Assistant/  
Confidential Clerk

APPROVED: \_\_\_\_\_



Ann E. Boxler, Clerk, Select Board Member

-----  
Attachments to Agenda of 6/25/18:

1 Edmond Beaulieu Citation.

2a Weatherlow Applications continued from 4-30-18.  
2b Fennely seasonal liquor license and common victualler application.  
2c Wish Come True - one day license request.  
2d Holy Ghost one day license request.  
3a Retain - Return list.  
3b Animal Control applicants.  
3c Recreation Director Info.  
3d Hartnett contract.  
3f West Branch Site 5 New Aquaculture Application.  
3g Aquaculture renewal lic revistion.  
3h Request for use of beach property.  
3i Hixbridge Solar filing from Planning.  
3j Indemnity agreement.  
3k Assessor request to extend contract.  
3l Filming info.  
4a Appointment list as of 7-6-18.  
4b Recreation Appointments.  
4c Economic Development Appoinments.  
4d Bike Walking Path Committee Appoinments.  
4e Police Request for appointment.  
5a Underwood Farms complaints.  
6 Town Administrator report.