

TOWN OF WENHAM

Board of Selectmen
Meeting of, December 15, 2015
Town Hall, 138 Main Street

Pursuant to the Open Meeting Law, M.G.L. Chapter 30 A, §§ 18-25, written notice posted by the Town Clerk delivered to all Board members, a meeting of the Board of Selectmen (BOS) was held on TUESDAY, December 15, 2015 at 6:30 pm in the Selectmen Chambers.

WELCOME: Call to Order

With a quorum present, Ms. Harrison called the Board of Selectmen (BOS) meeting to order at 6:32 pm
Selectmen present Catherine Harrison, Chair; Jack Wilhelm, Vice Chair; John Clemenzi, Clerk
Also Present: Peter Lombardi, Town Administrator; Catherine Tinsley, Recording Secretary

Public Information -

The meeting was recorded with permission by HWCAM

Agenda

Lakeview Notice of Change in Use

Used Car License packets

Settlement Agreement

Letter of Recommendation – Len Dolan /Jt. Rec

Town Counsel, Transition Plan – Draft

Town Administrator's Performance Evaluation Document – Draft

Minutes October/ November 2015

EXECUTIVE SESSION (2)

1. Lakeview Property - Real Estate

VOTE: Ms. Harrison moved the BOS enter into Executive Session according to MGL Chapter 30A Sec 21 for the purpose of Exemption (6) To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body and to include Special Counsel Tom Harrington and Planning Coordinator Emilie Cademartori, and to return to open session. The motion carried unanimously by roll call vote.

The BOS returned to open session at 7:38 pm.

PUBLIC COMMENTS –There were none.

ANNOUNCEMENTS

- Openings on Town Boards/ Committees are listed on the Town's web site.
- Lose leaf pick up is available on request by calling the DPW office to arrange for pickup
- The Winter Parking Ban is in effect - there is no on street parking between 12 am – 6 am
- Holiday Hours: Town Hall will be closed at 1 PM on December 24 & December 31
- The Annual Open House/ Holiday Party at Town Hall is Wednesday, December 23, 2015
- Holiday trees can be dropped off at Pingree Park for recycling by January 6, 2016; Iron Tree Service is donating their services.

The agenda was taken out of order.

Under Old Business – Lakeview update

Attorney Tom Harrington, Special Counsel retained by the Town to assist with the Chapter 61 process, was present to give an update regarding the Lakeview property.

The Town received notice the owners of the Lakeview Golf Course intend to change the use of the Lakeview property from recreational to non-recreational use. Because the property is in Chapter 61, this notice triggers certain rights for the Town, specifically the right of first refusal to purchase the property.

The BOS are in discussions with the property owners to determine what a development might look like and what it would mean to the town. The Selectmen will hold a public hearing to give residents the opportunity to give feedback to the Board regarding the various potential uses for the Lakeview property.

The December 16th date for the hearing has been rescheduled to January 6, 2016

REPORTS

Town Administrator - Update

- The posting for the Finance Assistant and Executive Assistant to the Town Administrator both expired yesterday and the posting for the Assessor expires Friday.
- There is a new posting for a part-time stipend position for an Assistant Health Agent; applications are due the end of the first week in January.
- The Department Heads presented their proposed initial budgets to the BOS on December 5th with the target to not exceed 3 percent maximum increase.
- The FY 17 (proposed) Administration budget will be discussed at the next BOS meeting January 5, 2016.

Chair

Ms. Harrison announced Lieutenant Governor Polito was in Wenham today to sign the Commonwealth Community Compact Agreement. Senator Tarr and Representative Hill were also present.

The current State Administration is not only talking to communities to understand what will help them the most, but also taking action by way of the Community Compact Grant to provide technical assistance and grant money to towns in their chosen areas; Wenham has identified putting together best practices for Capital Planning and Citizen Engagement.

NEW BUSINESS

Appointment

The Recreation Committee unanimously voted to recommend Len Dolan be appointed to the HW Joint Recreation Committee. This is to complete the unexpired term of Mary Bunting.

Vote: Mr. Clemenzj moved, and it was seconded, the BOS appoint Len Dolan to the HW Joint Recreation Committee through June 30, 2016 to fill the unexpired term of Mary Bunting. The motion carried unanimously.

Renewal of Annual Used Car Dealer Licenses

1. Burnett's Garage – Maple Street
2. Fallon's Garage - Main Street
3. Freeman's Garage – Arbor Street

Mr. Lombardi gave an overview of the process for the annual renewal of a Used Car Dealer License, issued by the Town, that begins with a letter being sent from the Town Administrator's office to the license holders, in October, to submit information for their license renewal by December 1 including a completed application, insurance - proof of bond, any relevant reports from the Building Inspector and/or Police Department and the application fee.

Burnett's Garage – 60 Maple Street

There was no representation from Burnett's Garage present.

The BOS stated they have not received any public concerns or complaints this year. The meeting was open to the public for comments. Seeing none, the Chair called for a motion.

Vote: Mr. Clemenzj move, and it was seconded, the BOS approve a used car license for Burnett's Garage, 60 Maple Street, to expire December 31, 2016. The motion carried unanimously.

Freeman's Garage - 34 Arbor Street

Ed Freeman Jr. was present and stated that code violations identified this past year have been resolved to the satisfaction of the Code Enforcement Officer.

The BOS acknowledged a letter from the Code Enforcement Officer, Charlie Brett, who was asked to speak to these issues. Mr. Brett summarized that in response to complaints from the neighbors Mr. Freeman was asked to clean up his property, and did so in a timely manner. Mr. Brett confirmed there were no zoning violations as of that day.

The BOS questioned a procedural issue; if Edward Freeman Jr.'s name is on the certification to do business in the Town or if it's his father, Edward Freeman. The Selectmen requested he update the business certificate dated 2012.

The Selectmen went on to question Mr. Freeman if any other business was being conducted from his property such as storing and/or selling scrap metal, bikes, the repair/ selling of snow blowers, lawn mowers etc. by either himself or anyone else. Mr. Freeman told the Selectmen that neither he nor John Balkus is involved in any other business operation out of 34-36 Arbor Street. The meeting was open to the public.

Paul Mendonca, 38 Arbor Street, identified himself as an abutter to the Freeman property.

He reported that it appears Mr. Freeman is continuing to deal primarily in metals, saying piles of metal come and go from the property, and are stored under tarps outside.

Denis Currant, 32 Arbor Street, abutter to the Freeman property alleged Mr. Freeman consistently operates his business outside of his licensed hours of operation. He observed that the “characters” that come and go make his family feel unsafe and suggested some sort of junk business (Recycle Man) also operates out of 34 – 36 Arbor Street.

Mr. Freeman responded he continues to clean out the house since his father’s passing a few years ago and on occasion stores things outside to avoid putting everything away at night. He also reminded the Board that he is a taxpayer and has concerns himself with the neighbors operating businesses out of their homes.

The Board asked for the ongoing complaints of the neighbors be monitored, especially if there is a non-licensed business operating out of this residential property. Ms. Harrison suggested the Board not approve the license at this time, until the paper work is cleaned-up allowing Mr. Freeman to do business in the Town of Wenham. *

Mr. Lombardi offered to facilitate a meeting with the neighbors, but Mr. Freeman refused saying he does not have to meet with neighbors, and does not think it would work out.

Mr. Mendonca added that he receives a rebate on his property tax due to the decrease of value to his property as a direct result of the mess on the Freeman property.

Mr. Brett has informed Mr. Freeman that “stuff” stored / kept under (tarp) cover is not acceptable, and encouraged the neighbors to find a middle ground.

Vote: Mr. Wilhelm moved, and it was seconded, that the BOS table action on Freeman’s Used Car license renewal due to the deficiency in the application. The motion carried unanimously.

Fallon’s Garage -233 Main Street

John Fallon, Main Street was present.

The BOS stated they have not received any public concerns or complaints this year involving Fallon’s Garage but reiterated that there is a limit of 20 vehicles that can be parked overnight on the property; no vehicles are to be parked on the Street / sidewalk.

Vote: Mr. Clemenzj moved, and it was seconded, to approve a used car license for Fallon’s Garage, 233 Main Street, to expire December 31, 2016. The motion carried unanimously.

Mr. Freeman opined that it seems unfair to subject Mr. Freeman every year to this type of questioning.

Town Counsel Transition & Recommendation

Motion: Mr. Wilhelm moved and it was seconded, the BOS accept the proposed transition plan to interview two recommended firms in a meeting in January with anticipated transition to outside legal counsel by the end of January.

Under discussion, Mr. Lombardi summarized that long time in-house Town Counsel Paul Weaver is transitioning out of this roll. Requests for Information were issued and three strong firms were interviewed. Kopleman & Paige and Miyares & Harrington were selected to give a presentation to the Board.

The Town will reserve the right to use special counsel as is deemed necessary.

As Moderator, Paul Weaver will continue to be involved in the Town Meeting process and will provide institutional knowledge working closely with the chosen firm going forward. Mr. Weaver also plans on continuing the codification project with General Code.

Vote: The motion to accept the proposed transition plan carried unanimously.

*Mr. Freeman returned to the meeting to show the Board a certificate to do business, with his name on it. A copy of this document was made.

Cross Keys/110, Inc. Settlement Agreement

Cross Keys, operating a drug/ alcohol rehab center on Topsfield Road, sued the Town as well as the Zoning Board members, Mr. Wilhelm, acting as Town Administrator, and Zoning Enforcement Officer/ Building Inspector Charlie Brett over a continuing dispute. Counsel negotiated a settlement with Cross Keys.

Motion: Mr. Wilhelm moved, and it was seconded, the BOS accept the Settlement agreement and release of claims between 110 Inc. DBA Cross Keys retreat and the Town of Wenham, Charlie Brett, Jack Wilhelm, and Zoning Board & Advisory (ZBA) members Anthony Feeberry, Jeremy Coffey, and Sean Hutchinson.

Under discussion, Attorney Joseph Padolsky of Louison, Costello, Condon & Pfaff was present and gave a brief overview and summary of the Settlement Agreement based on the decision of the ZBA of Cross Keys Appeal dated June 2, 2014.

MIIA, the Town’s insurance company has agreed to pay Cross Keys \$25,000 for the resolution. In exchange, Cross Keys has agreed to waive all rights to pursue claims raised in the June 15, 2015 letter. The Town has a \$7500 deductible; the remaining balance will be paid by MIIA.

The Settlement Agreement entered into with Cross Keys also acknowledges the town will take a default position in Cross Keys/110 Inc.’s pending 40A appeal with Dr. Miller; the Town will not take any position unless the Court orders it to do so.

The ZBA maintained the right to review the occupancy limit (14) in the future.

Vote: The motion carried unanimously to accept the Settlement Agreement.

Status Update and Prioritization of FY16 Goals

Mr. Lombardi provided a status update of the BOS FY 16 Goals as set by the Selectmen and approved September 1, 2015. In the interest of time, Mr. Lombardi questioned if a number of items identified in the goals were still on the list and requested feedback from the BOS to prioritize the list. The Selectmen will each prepare a list for the purpose of arranging the list in order of importance. This was deferred to the next meeting

OLD BUSINESS

Town Administrator's Performance Evaluation Document

Motion: Mr. Wilhelm moved, and it was seconded, the BOS accept the Town Administrator's Performance Document to be used for the Town Administrator's evaluation.

Under Discussion Mr. Lombardi reviewed the changes to the Performance Document, noting they were all minor in nature to accurately reflect the job description and contract.

The Board will have individual meetings with the Town Administrator and submit their comments to the Chair by January 11, 2016.

The evaluation will be on the January 19th meeting.

Vote: The motion to accept the Performance Evaluation document was unanimous.

MINUTES

Mr. Clemenzì moved to approve the meeting minutes of September 1, 2015 and it was unanimous to do so.

Mr. Clemenzì moved to approve the meeting minutes of September 15, 2015 and it was unanimous to do so.

Mr. Clemenzì moved to approve the meeting minutes of September 16, 2015 and it was unanimous to do so.

Mr. Clemenzì moved to approve the meeting minutes of October 13, 2015 and it was unanimous to do so.

Mr. Clemenzì moved to approve the meeting minutes of October 27, 2015 and it was unanimous to do so.

Mr. Clemenzì moved to approve the meeting minutes of October 28, 2015 and it was unanimous to do so.

Mr. Clemenzì moved to approve the meeting minutes of November 10, 2015 and it was unanimous to do so.

Mr. Clemenzì moved to approve the meeting minutes of November 17, 2015 and it was unanimous to do so.

Mr. Clemenzì moved to approve, but hold not for release the executive session minutes of September 1, 2015 and it was unanimous to do so.

Mr. Clemenzì moved to approve, but hold not for release the executive session minutes of September 15, 2015 and it was unanimous to do so.

Mr. Clemenzì moved to approve, but hold not for release the executive session minutes of November 17, 2015 and it was unanimous to do so.

EXECUTIVE SESSION - Union Contract Negotiations

VOTE: Ms. Harrison moved the BOS enter into Executive Session according to MGL Chapter 30A Sec 21 for the purpose of Exemption (3)

To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares related to contract negotiations with:

- *AFSCME Council 93, Local 2905*
- *Police Benevolent Association of Wenham*
- *Wenham Call Firefighters Association*

And not to return to open session but adjourn directly from executive session. The motion carried unanimously by roll call vote.

Respectfully submitted by

Catherine Tinsley
2.29.16