



MANCHESTER-BY-THE-SEA

BOARD OF SELECTMEN • TOWN HALL
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MINUTES OF THE BOARD OF SELECTMEN

April 5, 2021

6:30p.m.

Virtual Meeting

Join Zoom Meeting, Meeting: ID 921 4618 0891, Passcode: 076594 One tap mobile: 1.646.558.8656

MEMBERS PRESENT: Mr. Boling, Mr. Bodmer-Turner, Ms. Jaques, Ms. Harrison and Mr. Round

MEMBERS ABSENT:

STAFF PRESENT: Town Administrator, Mr. Federspiel, BOS Clerk, Ms. Hunter, Fire Department, Chief Cleary

GUESTS: Town Counsel, Mr. Witten

PRESS:

Mr. Boling called the BOS meeting to order at 6:32 p.m.

Mr. Boling welcomed participants to the virtual meeting indicating the meeting was being recorded and minutes were being taken by Ms. Hunter.

- **Public Comment** – There was no public comment this evening.
- **Covid Update, Outdoor Dining**

Mr. Federspiel reported the Town has signed on with the State to work with a mobile vaccination clinic for homebound residents. Interested residents should go through the vetting process by contacting either the COA or the BOH.

Working with Senator Tarr's office the 4 Cape Ann Towns, Ipswich, Hamilton and Wenham are making progress on developing a plan for a regional clinic to serve the 7 communities. After working on several options, the group is pursuing a partnership with Conley's Drug Store. Senator's Tarr staff continues to work hard on the clinic and hope to receive approval from the State soon.

Mr. Federspiel stated assuming current covid trends continue, Town Hall will open mid-month.

Outdoor Dining

Mr. Boling asked Board members if they had an opportunity to review the restaurant submittals. All Board members have reviewed the information provided. Additionally, Mr. Bodmer-Turner has been in contact with 6 neighboring communities and 5 of the 6

communities (Essex the exception) were using the State web site guideline for restaurants of 6 feet of separation between tables. Essex is using 6 feet between chairs. Mr. Boling indicated that fact may impact restaurants need for one versus two parking spaces.

Ms. Jaques believes that unless a restaurant is serving lunch and/or breakfast they will not need a dedicated space until evening and one parking space is a good compromise with retail shops. She is not opposed to Cala's using one dedicated spot and another after retail shops are closed.

Mr. Round stated there were four restaurant applications under consideration this evening. Bravo, Allie, Cala and Black Arrow. He concluded both Bravo and Allie appear to be set. Mr. Federspiel indicated he believes a moveable barrier on the downhill side could work for Cala's. Mr. Round believes signage would be important to mark the time the space would no longer be available to the public.

Ms. Harrison encouraged the Board and restaurants to look at other possibilities and stated she was uncomfortable with offering Town resources as a solution. She indicated last year was a crisis and pointed out there is space behind Cala's and across the street near Richdale's for Cala's to use in place of parking spaces.

Ms. Jaques reminded the Board that State liquor license requirements stated the service of alcohol needed to be in an area contiguous with the facility and visible from the restaurant. Ms. Harrison asked if the service could be monitored by camera. Mr. Federspiel thought this was an area where the Board could be creative and was not overly concerned give the close proximity of service.

Mr. Federspiel thought crossing the street for Cala's to provide service next to Richdale's could be problematic. Ms. Harrison stated it is pretty easy to put in a crosswalk, Mr. Federspiel agreed. Mr. Federspiel noted the proposal from Black Arrow showed 30 feet of street space which is more than one parking space. Ms. Jaques stated Cuddlefish has moved to Essex and the store front next to Black Arrow is empty. Mr. Boling stated the Board will return to the discussion of Black Arrow and parking spaces.

Mr. Bodmer-Turner had questions about the placement of tables for Allie's and asked if the owner of the upstairs art studio had provided a letter of agreement that tables would be placed next to her door. He also expressed concern about tables 7 and 8 on Allie's diagram and passage by table 7 to reach table 8, from the diagram he believes distancing may be problematic. He complimented Allie's for their creative use of space.

Mr. Bodmer-Turner was also concerned about Cala's proposal and storage of the temporary barriers. Additionally, the photo provided by Cala's included an umbrella with a liquor logo which was not allowed in Town guidelines. He addressed Black Arrow and the use of two spaces and the proposed 30 feet on the street indicating the challenges faced by restaurants is not a one size fits all. Mr. Bodmer-Turner stated the spaces could be used by the real estate office, businesses on Elm Street and businesses down to and including (Black Arrow).

Mr. Boling summarized questions for the Board to address with the restaurant owners and managers. One parking space available with the possibility of expanding to two parking spaces after 5:00 p.m., Cala's using space behind their building, umbrellas and storage of movable barriers.

Monica, representing Cala's, stated the 6 feet between tables will help expand the number of tables inside the restaurant. The proposed planters are made of wood and are moveable using a pallet jack. She proposes one table remain in the available space with two tables added after 5:00 p.m. She indicated the space in the back is common area and Cala's only has 4 parking spaces. She does not believe the back space is a good option for Cala's. The proposed umbrellas are the same umbrellas used last year and vendors provided them for free. The liquor logo umbrellas were used in several locations in 2020. Mr. Boling stated it is the Board's position that there be no liquor logos on umbrellas and that is what should be done.

Mr. Bodmer-Turner asked about the planter barriers and where they would be stored. Monica stated the planters are beautiful and she planned to move them in front of the jersey barriers on the uphill side. She believes the planters create more privacy for diners. Mr. Bodmer-Turner stated he wants to be assured that tables and patrons are being protected with barriers.

Ms. Bunker, owner of the Stock Exchange stated she was not seeing the plans but wanted the Board to know she had offered her four parking spaces in the back to Cala's for their use. Monica indicated she had not understood that was a possibility. Ms. Harrison pointed out four parking spaces in the back of the restaurant is more than one on the street. Monica stated it was difficult to park in the area in the back. Ms. Harrison clarified she was proposing the parking spaces be used for tables not parking. Monica objected stating putting tables in the back was not going to work because the Mooring parks back there too and she understood it was the preference of other tenants that Cala's does not use the back space for dining.

Mr. Boling stated the Board would return to this and moved the discussion forward. Glenn from Allie's stated the table placement does not interfere with the entrance to the art studio, however, he will confirm with the owner. Regarding distancing when passing table 7 to table 8 he will open the rope barrier so servers can step outside for greater clearance. He noted the proposed use of sidewalks allows for five feet at the narrowest point and clearance is the full 11 feet at most of the sidewalk area in front of the restaurant. He indicated there are two windows on the side overlooking tables 7 and 8 and welcomed a walk through if the Board desired. Mr. Bodmer-Turner would like to conduct a site visit.

Brenden and Milissa from Black Arrow stated the proposed layout for the front of the restaurant was to provide additional tables given the limited space inside the building. Brenden stated they closed the restaurant last year reopening for takeout only and would like to have 12 more tables outside this year and hopefully hang onto their business.

Mr. Round asked if there were 5 spaces in front of the restaurant. Brenden confirmed that was correct but the spaces are not defined and it depends on how people park. Ms. Harrison asked if Black Arrow was serving lunch. Brenden replied the restaurant opens at 4:30 p.m. for dinner. Mr. Boling stated a concrete barrier up the street would take out

one space. Ms. Jaques stated she walks by Black Arrow often and with Cuddlefish gone people do not park there and the spaces appear to be used only by Black Arrow patrons.

Mr. Boling stated he would like to arrive at some synthesis on the main topics and commit to the Board's decisions. He asked where the Board stood on parking spaces and downhill parking and moving into spaces after retail businesses close. Mr. Boling asked if the Board supported one parking space expanded to two after retail shops close.

Ms. Jaques supports this proposal. Ms. Harrison supports the proposal assuming the Board reviews monthly and this is not considered a permanent change to Town. She is good with one space and an additional space 5:00 to 5:30 p.m. Mr. Round is in support and asked that the second space have signage for availability only to 5:00 p.m. Mr. Round agrees the plan needs to be reviewed monthly depending on the status of covid.

Mr. Bodmer-Turner stated he was a little concerned about the second space at Black Arrow and believes it could be semi-permanent or the Board could decide on two spaces. He is also interested in seeing Cala's fully explore the use of the back space which would be the most ideal solution. Monica stated the back space will require work and coordination and would like to see the front space available as soon as possible. Mr. Bodmer-Turner stated the street barrier would need to be angled as it was last year.

Chief Cleary stated he did not see plans for patron safety in any of the plans submitted and that is his primary concern. He would like to walk the sites with Chief Fitzgerald, review the moveable barriers and develop a recommendation following review.

Mr. Federspiel stated in terms of barriers DPW is ready to put out when decisions are made and the barriers can be painted following placement. Ms. Jaques asked if there were any incidents with cars and jersey barriers last year. Mr. Federspiel stated there was one incident after hours at the barrier in front of the Mooring. The barrier was moved slightly and there were no injuries.

Aimee from Mari's stated the back parking lot has nine spaces and it is good with her if Cala's wants to use her spaces too. She believes Mr. Brown will provide spaces in one of his properties for her use.

Mr. Boling stated in the interest of time, efficiency and compromise while waiting for the Fire Chief's review the Board will approve one parking space. Mr. Bodmer-Turner stated the Town will put up barriers for one space while the Fire and Police Chiefs evaluate safety. Cala's will evaluate using the back parking lot as a possibility. Monica from Cala's stated if they use the back parking lot, they will need a tent to hide some of the utilities. Mr. Boling indicated that would be okay to consider.

Mr. Round returned to Black Arrow and their proposal for two spaces. Ms. Harrison does not agree with different things for different restaurants. She would like to see Cala's move from the front of the building.

Mr. Boling is good with Black Arrow using two spaces. Ms. Jaques is also good with Black Arrow using two spaces given their location and the small inside space. Mr. Bodmer-Turner and Mr. Round are also good with Black Arrow using two spaces but cautioned about safety and traffic moving fast past Black Arrow.

Ms. Jaques moved to support two spaces for Black Arrow, single space for Cala's and Allie's, no logos on umbrellas, Cala's to work on space in the back, restaurant agreement to be reviewed monthly and no tents on street, Mr. Round seconded the motion. The motion passed unanimously.

Mr. Boling cautioned restauranteurs to be aware of the sidewalk space as he received multiple complaints last year and asked, they keep it tight this year.

- **Request for Utility Connection, 110 Bridge Street**

Mr. Senecal, 110 Bridge Street seeks permission to connect to the sewer system via the private force main that runs in front of his house. The force main was originally installed by the Old Corner Inn. In 2014 the Board approved a new connection for 120 Bridge Street under similar circumstances. The current owners of the private force main, the BOH and the DPW have all approved the request. (While the signature of one owner is missing on one form, he has subsequently signed the same form as a stand-alone document.)

The home has 8 bedrooms. At the rate of \$1,650.00 a bedroom the connection fee would be \$13,200.00. The fee for Mr. Puchniak was reduced by half, partly because the process to seek a connection to the Town system started prior to the adoption of the sewer connection fee. Mr. Senecal is requesting a reduction as well. Mr. Federspiel indicated while he appreciates the desire to pay less, even with the money he must pay to connect to the private line and with the Town's full connection fee he is paying less than he would if he were installing a new on-site system.

Mr. Bodmer-Turner asked for clarification regarding the delay with the property owner hooking up to the system. The original consideration granted Mr. Puchniak was the result of a 7 year lag from when the original application was submitted and during the lag time the Town fee was implemented. Mr. Bodmer-Tuner indicated this is a different situation and the fee should be applied. Mr. Round agreed as did Ms. Harrison and Mr. Boling. Ms. Jaques asked what the fee covered. Mr. Federspiel stated the fee helps pay for additional I&I removal efforts which in turn frees up more capacity allowing more connections. She too agreed with the fee.

Ms. Jaques moved to approve the request for hook up and payment of the Town fee, Ms. Harrison seconded the motion. The motion passed unanimously.

EPA Grant re: Climate Change Technical Assistance

EPA has chosen Cape Ann as one of four projects nationally that they have agreed to support this year through their Building Blocks technical assistance program. The Cape Ann Climate Coalition is comprised of residents from all four Cape Ann communities and is working to be a catalyst for action on addressing the challenges that rising seas and more intense storms presents to the region.

EPA will assist in public engagement efforts as discussions take place on what are the priority action steps and offer guidance on what federal funding might be available to help pay for proposed steps.

As part of the EPA work an advisory group is being formed and it would be good to have participants from each of the four communities, including elected official. Mr. Federspiel asked who from the BOS would be willing to participate along with an interested resident and possibly a member of the Planning Board.

Following discussion, the Board decided to support Ms. Harrison as their representative to the Coalition.

Ms. Mellish, asked if the Grant required matching funds from the Town. Mr. Federspiel replied it did not.

- **40B – Update**

Mr. Boling indicated the upcoming meeting with the Developer may be the final meeting. Lawyers are working on the language of the agreement and hopeful there will be a final version to discuss during tomorrow's meeting. If we have a document there will be a few outstanding questions. The Board will conclude discussions and have an agreement or one party may walk away.

Mr. Boling stated he would like to comment on the correspondence and comments the Board has received requesting the Board not to endorse the 40B application for SLV and instead to endorse the Powder House Lane Apartment conversion. The Board was handed the local initiative project for Shingle Hill and used the opportunity to negotiate conditions. Had the Board not negotiated the Developer would have gone forward with an unfriendly 40B development. "Endorsement" is a legal term that relates to the LIP process and without an endorsement the Town does not have an opportunity to define conditions.

At this time, the Board does not have a proposal from the Powder House Lane project. That may change at some point and Mr. Boling likes the possibility of affordable housing at the location. He understands residents are in favor of Powder House Lane and believes it is a better opportunity for affordable housing in Town but at this point it is not before the Board -- only the current 40B project proposed by SLV is formally up for discussion.

Many residents do not want the 40B Shingle Hill project to proceed. The project will proceed to the formal permitting process before the ZBA whether the Board agrees or not. The final approval of the project is not up to the Board of Selectmen it is up to the Zoning Board of Appeals. Mr. Boling believes residents have a misconception and the Board has a choice between Shingle Hill and Powder House Lane that is not true.

The Developer came to Town because the Town is vulnerable due to the Town's lack of affordable housing and the Board had no choice but to respond. The Town is not in a safe harbor and the proposed Powder House Lane project is not a given for approval. The Board does not have a choice between the options and the Board cannot stop the 40B project. Mr. Boling believes it is a gamble for the Town to stop negotiations with the Developer. The Board is tasked with the unpleasant responsibility to chart a course for the Town and the Board is completing that task from a conservative point of view.

The request from residents is risky and a huge gamble. Mr. Boling wants to make clear the 40B project is not a done deal, a point that is important for residents to understand. The Board does not know how tomorrow's meeting will go, we will post the outstanding issues to be discussed when the issues are available from the lawyer.

Board Comment

Mr. Bodmer-Turner stated he would like to separate what is a done deal and not. The Powder House Lane financing is incomplete and the logistics and timing for creating affordable housing with the North Shore Community Development Coalition (NSCDC) has just been initiated and the process usually takes between 2 to 3 years to complete.

Mr. Round stated the proposal is a gamble and a race to get to ZBA. Getting the Powder House Lane project on the subsidized housing list takes time. Mr. Jaques agrees with what has been stated and reiterated the Board is taking this seriously and working in the best interest of the Town. She applauds the effort to come up with affordable housing for the Town but cautions NSCDC never promised a fast track, there are protocols and it takes time.

Ms. Harrison stated the agreement the Board is working on will reduce the impact the SLV project has on the Town. An agreement will reduce the number of households with school age children and the subsequent costs to the Town of those children added to the school District. An agreement will work to protect the watershed and a sidewalk will make the development less remote and safer. Additionally, through negotiations with the Developer the building will be 3 stories not 4 stories and the Town will protect the watershed with more stringent controls than would be enforced by the State DEP.

Public Comment

Ms. Ochs, 12 North Street – Ms. Ochs stated Mr. Boling emphasized the Board did not have an official proposal but suggested the Powder House Lane project could hold a first place in line in front of SLV. Mr. Federspiel indicated any applicant needs to have a letter of appropriateness from the State and NSCDC can also act to secure that letter. Ms. Ochs stated she had read the State regulations and the Building Permit is the date of the application. Mr. Witten clarified there were two processes for attaining a letter and the comprehensive permit was the more straight forward and tried and true approach.

Ms. Ochs also stated she hoped the Board would stay strong in LIP negotiations. She added she believes the sidewalk does not need to be negotiated as it is legally required but the Cedar Swamp Aquifer's importance as related to the Town's water supply needs to be documented.

Mr. Deny Hall, 20 Masconomo Street – Mr. Hall stated in his 50 years of working in affordable housing the SLV project is the worst conceived project he has ever seen and he believes the Housing Appeals Committee will rule against the project.

Ms. Sandy Rogers, 82 Old Essex Road – Ms. Rogers asked what action the Board had taken around the number of requests for waivers the Developer had presented. Mr. Boling stated waivers will be resolved by the ZBA and the provisions had been dropped

from the Board's consideration. The Developer would like a political statement from the Board with respect to waivers and that is being sorted out by the lawyers.

Mr. Witten asked to speak to Mr. Hall's comment related to the Housing Appeals Committee. Mr. Witten has appeared before the Committee representing many projects and the Committee is the most unfair, undiplomatic and arbitrary Committee he has ever appeared before. The Housing Appeals Committee is a mission driven agency whose goal is to approve more housing projects. Mr. Witten stated rarely does a municipality prevail before the Committee. He added a note of caution -- it is a dangerous gamble for a municipality to appear before the Committee with an expectation of prevailing.

Bob Meahl, 114 Beach Street – Mr. Meahl acknowledged the Board was working hard on a difficult project and thanked the Board for their effort. He stated the Town does not want the SLV project and proposes the Board fight the project and find a way out.

Lorraine Iovanni, 20 Pine Street – Ms. Iovanni asked if the Town finds itself before the Housing Appeals Committee and appeals to Superior Court and onto Appellate Court what is the timeline for a decision. Mr. Witten defined the process and indicated it would likely take 3 years for the appeal and decision through the appeal and court process.

Mr. Boling indicated if a comprehensive permit application comes before the Town prior to the Town reaching a safe harbor the application will proceed even if a new project advances. It is a race for the Town to achieve safe harbor prior to the Town receiving a project eligibility letter.

Mr. Boling concluded the Board will proceed with the Developer tomorrow evening and see where we end up with contract language.

- **FY22 Budget Discussion**

Mr. Federspiel stated the Finance Committee is close to wrapping up the FY22 budget. The Committee is proposing a 1.5% tax increase for FY22. While lower than the usual 2.5% the Finance Committee has tightened spending and more closely projected revenues for FY22.

A few outstanding areas remain open for further discussion:

- The Regional Dispatch discussion requires further study and consideration.
- Fire Department staffing remains an outstanding issue with limited Call Fire Fighters to support the Department there are concerns around the Department's ability to muster a full crew. At this time decisions will be made for FY23.
- MERSD – the School Committee has approved the District's FY22 Budget with an increase of 3.5%. The apportionment for Manchester is 3.2% and Essex 3.9%. The District has the possibility of additional funding from Federal programs but that is yet to be confirmed.
- Staffing – The Assistant Assessor is moving on opening the possibility to create one position for an Assistant to both the Assessor and Building Department. Additionally, Ms. Riley, our grant writer, is retiring. Mr. Federspiel proposes

hiring a Grant Coordinator/Special Project person to work with the Town Administrator. The reallocation of funds makes the proposal cost neutral.

Mr. Boling stated the Board while having discussed the Regional Dispatch Center (RCC) during the budget process has made no decisions but plans to look at the RCC more closely and with more detail in the coming year. It appears some residents are guessing what is planned, there are currently no plans. Mr. Boling would appreciate patience from residents while the Board reviews the pros and cons and develops a presentation on the possibility of a move.

Mr. Bodmer-Turner mentioned the RCC's success in rescuing lost hikers using their advanced 911 and GPS systems to guide police to the hikers while the hikers remained in place. Mr. Round stated on dispatch the Board does not have all the facts and it is an open questions. On personnel issues he stated it appeared Mr. Federspiel has the moves well in hand. Ms. Harrison agrees dispatch needs to be reviewed and presented when the Town is out of the Covid crisis. She also agrees any personnel moves that will make Mr. Federspiel's job easier is a good plan. Ms. Jaques agrees with what has been stated.

- **Western Woods – Trails Work Update**

Ms. Brown, Town Planner has been working with Cape Ann Trail Stewards on an agreement to take care of various trails in Town. While mainly involving the Conservation Commission, Mr. Federspiel believes it would be good to gain the Board's support for this effort as well. As Ms. Brown mentions, this is not meant to be a formal contract but rather memorializing the understanding and intent behind the collaboration.

Mr. Boling stated the Cape Ann Trail Stewards will work in the Western Woods, Powder House Hill and Dexter Pond areas and their efforts will help make the conservation lands more accessible for Town Residents.

Ms. Jaques stated the project has her support. She is interested in understanding who would pay for Kiosks and Trail Signs. Mr. Federspiel indicated the Conservation Commission works to provide trail funds. Ms. Jaques also asked about insurance for Cape Ann Trail Stewards, Mr. Federspiel stated anyone on public land in Town is covered by the Town's general liability policy.

Ms. Jaques moved to support the agreement with Cape Ann Trail Stewards, Ms. Harrison seconded the motion. The motion passed unanimously.

- **Consent Agenda**

- BOS Meeting Minutes – March 15, 2021
- Accept Gift of Stock from Resident given to the COA
- Increase in Fire Department Fees
- Memorial Bench for Town Employees

Ms. Jaques moved to approve the Consent Agenda, Mr. Bodmer-Turner seconded the motion. The motion passed unanimously

- **Town Administrator's Report**

- ✓ **Construction updates:** Additional work will be done on the revetment at Singing Beach – specifically “choke stone” between the large boulders – as well as the West Beach seawall (new gate.) Sewer lining work continues in Town, next along the stretch from Ashland Ave to Bridge Street by the salt marsh. Town Hall HVAC system should finally be operational within the next couple of weeks.
- ✓ **Coach Field Scoreboard:** The scoreboard was deemed beyond its useful life. It had to be removed for the Memorial School construction project and putting it back up did not make sense given its age and poor working condition. A replacement scoreboard will be part of the field upgrade work planned in the coming year.
- ✓ **Staffing:** The Town is advertising for a new Assistant to the Town Clerk as well as searching for a new clerk to the Planning Board and the ZBA (may combine these two.) Soon we will be advertising for a new Principal Assessor as Ms. Thompson will be retiring in the fall of 2021. As mentioned earlier, Mr. Federspiel plans to reorganize the Assessor's/Building Department and hire a new Grants Coordinator/Special Projects person. Mr. Federspiel is also considering hiring a part-time custodian rather than contracting with cleaning services. These moves are all cost neutral.
- ✓ **Newsletter:** The next quarterly Town newsletter will be going out to all residents shortly.

- **Other Matters, as May Have Not Been Reasonably Anticipated by the Chairman** – There were no additional matters discussed this evening.

Ms. Jaques moved to adjourn the meeting to enter Executive Session and not to return to Open Meeting, Ms. Harrison seconded the motion. The motion passed unanimously by roll-call vote.

- **Executive Session:**

- A) **Under M.G.L. Ch. 30A, sect 21 (a)(2) To Conduct Strategy Session in Preparation for Union Negotiations.**
- B) **Under M.G.L. Ch. 30A, sect 21 (a)(6) To Discuss Possible Real Estate Transaction.**

Meeting Documents:

- Consent Agenda as listed
- Outdoor Dining Proposals
- EPA Building Blocs Grant to the Cape Ann Climate Coalition
- Western Woods, Cape All Trail Stewards Trail Stewardship Program
- FY22 Budget
- Town Administrator's Report

Upcoming BOS Meeting

- Tuesday, April 20, 2021

- Monday, May 3, 2021