

BOARD OF SELECTMEN MINUTES OF FEBRUARY 9, 2015

PRESENT: Selectmen Donald Beaulieu, Chairman; Freeman Condon, and Wilma McDonald
ABSENT: Selectmen Richenburg and Hunt
ALSO PRESENT: Neil J. Harrington, Town Manager

I. Call to Order/Salute to the Flag

Chairman Beaulieu called the meeting to order at 7:00 PM in the Colchester Room, Salisbury Town Hall. He then announced, per the Open Meeting Law, that this meeting is being recorded and broadcast live.

II. Acceptance of Minutes Minutes of January 26, 2015

Motion by Selectman McDonald, Second by Selectman Condon; unanimously voted to approve the Minutes of Jan. 26, 2015 as written.

III. Old Business - none

IV. New Business

a. License Renewals:

Motion by Selectman Condon, Second by Selectman McDonald; unanimously voted to renew a **General** license, with the same conditions/restrictions that may have been on the original license and all subsequent renewals for: Nor'east Taxidermy – 78 Lafayette Rd., Trelfa Labs – 6 Merrill St., and Bridge Road Antiques & Used Furniture – 17-19 Bridge Rd.

The next agenda item involved an application for a **General** license renewal for TintAutos, 2 School Street. Chairman Beaulieu noted that the applicant and the owner of the property had been invited to attend, as the Board had received several complaints from customers of Merry Motors, the other tenant at the property, about harassment from the owner of TintAutos. He also mentioned that it was his understanding that there were some “life and safety” issues relating to the property, and he stated that the Building Dept. and the Fire Dept. had provided reports to the Board. The applicant was not present, but the Chairman asked the owner of the property, Bruce Rines, who was in attendance, whether he was aware of these building issues and whether he was working with Town officials to solve them. Mr. Rines said he was aware of the issues and that he was cooperating with the Town. He acknowledged, however, that his two tenants (who are both tenants-at-will) do not get along. He talked about ongoing disagreements between the tenants regarding the heating system and access to the one bathroom on the premises, and said he had been trying to work out the problem. He mentioned that the Building Inspector had recommended a solution to the disagreement regarding access to the bathroom, which he pledged to implement.

Selectman Condon told Mr. Rines that he was aware of several citizen complaints against the owner of TintAutos, and asked him if he were aware of how serious an issue this had become. Mr. Rines said he had spoken to both of his tenants and was looking for more cooperation from all parties involved. Mr. Condon also noted that the owner of TintAutos was exceeding the hours of operation allowed by his license, including working after 10:00 PM. Mr. Rines stated that the hours of operation for Merry Motors are 8:00 AM until 4:00 PM, and that for TintAutos the hours of operation are 12:00 noon until 8:00 PM. He agreed that the owner of TintAutos often works late and then heads out to another part-time job. Mr. Rines said he had no first-hand knowledge of the owner of TintAutos harassing people and had never seen him being rude to customers of Merry Motors.

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Selectmen McDonald asked Mr. Rines if he was committed to making the improvements to the building that have been recommended by the Building Inspector and the Fire Dept., and whether he thought that those building improvements would make the situation better. Mr. Rines said that he would follow through on the improvements and that he believed that would help resolve some of the existing problems between his tenants.

Selectman Condon then MOVED to table the General license renewal for TintAutos until the next meeting and request that the applicant be present. Selectman McDonald seconded the motion, and it was adopted unanimously.

b. New Licenses

Selectman Condon MOVED to approve the a new **Common Victualer** license for Chamathai, at 50 Elm Street, Unit 1, provided that all other requirements were met, particularly a sign-off from the Board of Health. As there were questions about the application from members of the Board, Mr. Condon withdrew his motion. Selectman McDonald then MOVED that the license approval be tabled until the next meeting and request the applicant to be present. The motion was adopted unanimously.

c. License Amendments - none

d. Committee Appointments - none

e. Update/Presentations: Conservation Commission

It was noted that the Chairperson was unable to attend.

f. Discuss Re-Sale of LIP Unit at 135 Beach Rd., and Right of 1st Refusal

The Town Manager noted that the Board had received a letter from Ms. Julianne Dube, the owner of 135 Beach Road, Unit #211 at the Windgate Condominiums, informing the Board of her intention to sell her unit. As the Town has the option of purchasing affordable units that are offered for sale, the Town Manager stated that the Board should decide whether it wanted to exercise its right of first refusal on the property. Selectman Condon MOVED that the Board not exercise its right of first refusal to purchase Unit #211 at 135 Beach Road. The motion was seconded by Selectman McDonald, and was adopted unanimously.

g. Vote to Accept Proposal re: Land Exchange/Easements on 13th Street East

The Town Manager announced that the long-standing legal dispute between the Town and Harold Nabhan regarding the property formerly known as 13th Street had been resolved as a result of a settlement agreed to by the parties. By way of background, Mr. Harrington explained that Mr. Nabhan had purchased the property several years ago from the Salisbury Beach Associates, but that a dispute had arisen regarding his ability to build on a portion of the property, due to an underlying indenture (easement) that the Town held in the entire width of 13th Street East (approximately 46 feet wide), ensuring perpetual access to the beach for the public, and that Mr. Nabhan had sued the Town for refusal to issue him a building permit.

The Town Manager noted that the Board had approved a settlement of the case, which will result in Mr. Nabhan deeding to the Town a fee interest in a 15-foot wide portion of the former 13th Street East, from North End Boulevard to the beach, which will remain open for public access. Mr. Nabhan also will pay the Town \$65,000. In return the Town will abandon its underlying easement over the entirety of the former 13th Street East. The settlement agreement has been signed by the Board and filed with the Land Court, and a judgment has been entered confirming the settlement. In order for the Town to abandon its easement, State law required that the Town issue a Request for Proposals (RFP) seeking

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responses from parties interested in (a) exchanging the Town's easement for the fee interest in a 15-foot wide parcel of land that would provide public access to Salisbury Beach and (b) paying the Town a minimum of \$65,000 for its abandonment of the easement. Mr. Harrington noted that the Town issued the RFP on Dec. 24, 2014, with responses due on January 26, 2015, and that Mr. Nabhan was the only respondent. Since his proposal (which had been included in the back-up material for the meeting) met all of the requirements of the RFP, the Town Manager recommended that the Selectmen accept his proposal in the form of a vote that had been prepared by Town Counsel.

Mr. Condon thanked Mr. Harrington for his presentation and stated that, in his opinion, the significance of the settlement was that the Town was successful in preserving public access to the beach over a portion of the former 13th Street East in perpetuity.

Selectman Condon then MOVED that the Board of Selectmen accept the proposal submitted by Harold G. Nabhan and Violet Ann Nabhan, dated January 23, 2015, in response to the Town's Request for Proposals to Exchange Land/Easements – 13th Street East, dated on or about December 24, 2014, and authorize the Chairman of the Board to execute any and all easements, releases, acceptances and other documents on behalf of the Town to effectuate the foregoing transaction.

Selectmen McDonald seconded the motion, and it was adopted unanimously.

V. Comments by Visitors - none

VI. Sewer/Water

VII. Correspondence

VIII. Hearings - none

IX. Town Manager's Report

Mr. Harrington gave a brief overview of his written report, a copy of which is available in the Selectmen's office.

X. Selectmen's Report

a. Ratification of Signing of Weekly Warrants:

Motion by Selectman McDonald, Second by Selectman Condon; unanimously voted to ratify the signing of the following weekly warrants: W15-125 thru W15-133.

b. Subcommittee Reports

Library: Selectman Condon reported that the Library Building Committee is continuing to meet weekly. There are some concerns about the weather affecting the schedule, but the inside work on the building is proceeding well.

Lafayette Corridor Sewer Extension: No report

Town Common Re-Design: Chairman Beaulieu informed the Board that he would be asking the Chairman of the Common Re-Design Committee to make a presentation to the Selectmen when its full membership was in attendance.

Police Station Building: Selectmen Condon reported that the project was on track and meetings were being held on schedule.

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Chairman Beaulieu announced that there was a meeting of the Triton District Communications Committee schedule for February 12, and that all members of the Board of Selectmen and the Town Manager had been invited. The main purpose of the meeting was to discuss funding for the proposed stadium renovation project.

Selectman Condon stated that DPW Director Donald Levesque and his staff had done a very good job in dealing with plowing and various snow-related issues and that Emergency Management Director Robert Cook was on top of things, as usual, but that it has been a difficult two weeks. He asked for patience on the part of the public as the Town attempts to deal with the winter weather.

XI. Executive Session - none

XII. Adjournment

Motion by Selectman Condon, Second by Selectman McDonald; unanimously voted to adjourn at 7:44 PM.

Documents provided at the meeting and on file in the Selectmen's Office:

Minutes of Jan. 26, 2015

Copies of licenses as listed

Info on the Sale of LIP Unit

Proposal re: Land Exchange/Easements on 13th Street East

Town Manager's Report

Respectfully submitted:

Neil J. Harrington, Town Manager

Approved: _____
Wilma McDonald, Acting Clerk