

Selectmen's Minutes
Town Hall, 2nd Floor Stage, 30 Martin Street

June 6, 2022

Note: This meeting will be held in-person at the location provided on this notice. Members of the public are welcome to attend this in-person meeting. Please note that while an option for remote, audio-only attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast or its quality, unless otherwise required by law. Members of the public with particular interest in any specific item on this agenda should make plans for in-person vs. virtual attendance accordingly.

Call in Phone Number: 605-562-8401 Password: 8378315

Present: Chairman Ruth R. Pereen; Selectman Peter D. Phippen; Selectman Guy D. Bradford; Town Administrator Brendhan Zubricki; Selectmen's Assistant Pamela J. Witham; Shelly Bradbury, David Davis; Board of Public Works Superintendent Mike Galli; Board of Public Works members John Filias and Timothy O'Leary; Amanda Davis; Tina Lane; Antonella Muniz; Donna Roy; Town Clerk Pamela Thorne.

At 6:00 p.m., Chairman Ruth R. Pereen called the meeting to order in the 2nd floor stage conference area of the Town Hall, located at 30 Martin Street.

A motion was made, seconded, and unanimously voted to approve and sign a Release of Installment Sale Agreement for the property located at 5 Cogswell Road (Map 110, Lot 28). Town Clerk Pamela Thorne notarized the Selectmen's signatures.

The Chairman read into the record the *Findings of Fact* to support the Board's decision made on June 1, 2022, denying a one-day entertainment permit application for September 3, 2022 from the Riversbend Restaurant. A motion was made, seconded, and unanimously voted to approve the statement as read.

David Davis, a resident of Kings Court, joined the Select Board to discuss his concerns about the proposed Shingle Hill housing development on the Manchester-Essex line. He has lived in Essex since the 1970's and loves the town and the surrounding countryside. He enjoys bicycling and hiking the nature trails. He is not in favor of the proposed housing development in the Manchester Woods for many reasons and asked that the Board not support the project. The Board thanked Mr. Davis for sharing his concerns and he left the meeting.

Mr. Zubricki began the presentation of his Town Administrator's Report for the period May 21, 2022 through June 3, 2022, regarding the following:

Consideration of Property Right Acquisition for Beneficial Re-use of Dredge Spoils: The US Army Corps of Engineers has been conducting a study on the beneficial re-use of dredging materials and the Corps has determined that any beneficial re-use will require the Town to obtain

both temporary and permanent easements on private land. The easements would permit the placement of the dredging materials. The project would also require the Town to pay 35% of the delta between the cost of traditional dredging and beneficial re-use. Neither the Board nor Mr. Zubricki were in favor of the idea since the Corps has already been fully funded by Congress to conduct traditional maintenance dredging of the Essex River, at no cost to the Town. The Board asked Mr. Zubricki to confirm the potential cost of the delta figure with the Corps but does not expect to move in that direction.

The Board reviewed an appeal of the Town Clerk's decision not to grant a resident parking sticker to Mr. Joseph Parady, based on Mr. Parady not meeting the criteria put forth in the Town of Essex Regulations for the Issuance of Resident Parking Stickers. Mr. Parady does not live in Essex, but he has a "duck camp" on the marsh. After a short discussion, a motion was made and seconded to deny his appeal. Chairman Preen and Selectman Bradford voted against issuing a parking sticker and Selectman Phippen voted to issue the parking sticker. The motion to deny the request carried.

The Board was joined by Board of Public Works members John Filias and Timothy O'Leary, Board of Public Works Administrative Clerk Amanda Davis, and Superintendent Mike Galli for a discussion regarding solid waste disposal. The Town's contract with COVANTA to collect and remove the Town's solid waste will expire on January 1, 2023. Both boards again reviewed the various options. Many residents have expressed a preference for keeping the transfer station. However, the transfer station was built in 1985 and now requires replacement of equipment and repairs to the building. Continued operation of the repaired station on a pay-as-you-throw basis would require contracting out the day to day supervision of the site (to ensure that an attendant was always available), another contract for removal and disposal of solid waste, and perhaps a third contract for disposal of recyclables. It was suggested that curbside pickup would be the easiest and fastest to implement, given that there are only six months left in the COVANTA contract. Curbside pickup for 18 months, would give the Town time to repair the transfer station and fully research other options while placing the solid waste contract into a fiscal year schedule (as opposed to the current, calendar year schedule). Discussion continued at length. The possibility of placing a survey on the Town website was discussed, as well as reducing the days that the transfer station is open from 3 to 2 days per week. It was agreed to continue this discussion at the next Selectmen's meeting on June 20, 2022.

Pamela Thorne, John Filias, Michael Galli, Timothy O'Leary, and Amanda Davis left the meeting.

At 7:34 p.m., the Chairman announced that the Public Hearing concerning the transfer of an All Alcohol Beverages Restaurant License, Alteration of Premises, and Change of Manager from the Great Marsh Restaurant LLC, d/b/a Great Marsh Restaurant, Michael Werthman, Manager, at 99 Main Street to the Great Marsh Brewing Company, d/b/a Great Marsh Brewing Company, Justin Monteith, Manager, via a Management Agreement with Craft Food Hall Project Holdings, LLC would not take place due to an unforeseen change to management personnel. Depending upon

when the new application package is received by the Board, a new public hearing may be scheduled for June 27, 2022.

In other business, a motion was made, seconded, and unanimously voted to approve the weekly warrant in the amount of \$177,079.02.

A motion was made, seconded, and unanimously voted to approve the minutes for the Selectmen's May 23, 2022, Open Meeting.

A motion was made, seconded, and unanimously voted to authorize the Chief of Police to sign a contract for the Shared Streets and Spaces Grant in the amount of \$43,848.87 for the purchase of police speed equipment.

A motion was made, seconded, and unanimously voted to approve and sign an MGL Chapter 44 Section 33B transfer in the amount of \$12,000.00 from Police In-service Training Expenses to Police In-service Training Salaries.

A motion was made, seconded, and unanimously voted to approve and sign an MGL Chapter 44 Section 33B transfer in the amount of \$6,000.00 from Ambulance Training Salaries to Ambulance Training Expenses.

A motion was made, seconded, and unanimously voted to approve and sign an MGL Chapter 44 Section 33B transfer in the amount of \$4,723.93 from Department of Public Works Public Safety Building Snow Removal to Snow Removal Overtime.

The Board reviewed a request by the Greater Cape Ann Chamber of Commerce to pay for a police detail associated with the Cape Ann Plein Air event out of the Town Events budget. Following a short discussion, the Board asked Mr. Zubricki to ask for more information and this item will be discussed at the next Selectmen's meeting on June 20, 2022.

A motion was made, seconded, and unanimously voted to accept Dawn Burnham's resignation letter from the Council on Aging.

A motion was made, seconded, and unanimously voted to ratify the Chairman's signature of a letter of support for the Essex County Greenbelt's Massachusetts Office of Coastal Zone Management Coastal Resilience Grant Program to upgrade a culvert under the main entrance driveway to the Cox Reservation.

A motion was made, seconded, and unanimously voted to approve a request from Sergeant Daniel Bruce to carry over 80 hours of vacation time from FY2022 to FY2023.

A motion was made, seconded, and unanimously voted to approve a request from Police Chief Paul Francis to carry over 80 hours of vacation time from FY2022 to FY2023.

A motion was made, seconded, and unanimously voted to approve the renewal paperwork for the Town's Police and Fire accident insurance policy. The Chairman signed the documents.

A motion was made, seconded, and unanimously voted to approve a request from Desiree Comb to be appointed to the Economic Development Committee for a 3-year term, ending 6/30/2025.

A motion was made, seconded, and unanimously voted to approve a request from Nat Crosby, Historical Commission Chair, to appoint Marlene Putnam to a vacancy on the Historical Commission for a 3-year term, commencing 7/1/2022.

Mr. Zubricki reported that he had received notification from Massachusetts Cultural Council that the State designation of the Town's Essex River Cultural District is up for renewal. He asked the Board if they were still interested in maintaining the District and they were in favor of continuing the designation. Mr. Zubricki said that he would contact the Essex Historical Society and Shipbuilding Museum and ask if they would consider working on the renewal. In the meantime, Mr. Zubricki agreed to send a letter to the Mass Cultural Council notifying them of the Town's intent to renew the designation.

A request was reviewed to proclaim a date (to be determined) as Lark Cookie Day on the Town Calendar. The Board decided to take no action on this request.

The Chairman read into the record the *Findings of Fact* to support the Board's decision made on June 1, 2022, approving, with modifications, a one-day entertainment permit application for June 10, 2022 made by Essex County Greenbelt. A motion was made, seconded, and unanimously voted to approve the statement as read.

The Board reviewed the Building Inspector's report of his site visit to Dynamic Auto Brokers at 147 Eastern Avenue that was made at the Selectmen's request following the receipt of complaints. Previous rulings by the Board had required a fence and had limited the number of cars allowed on the property. The Inspector's report verified non-compliance with both requirements. A motion was made, seconded, and unanimously voted to hold a public hearing on July 11, 2022 regarding a Used Car Dealer's Class II License held by Charles Coles Jr. and Mark Gallagher, Dynamic Auto Brokers at 147 Eastern Avenue.

The Board again briefly discussed whether the Town should extend the ability to join its health insurance program to elected officials of the Town at 100% of the current premium. A motion was made, seconded, and unanimously voted against making the Town's health insurance plan available to elected officials.

A motion was made, seconded, and unanimously voted to approve an application for a Student Shellfish Permit for Charles Rousmaniere and a Commercial Shellfish Permit for Steven MacDougall.

Chairman Pereen announced that the One-Day Wine & Malt License request from Craft Food Halls, Justin Monteith, for use on Thursday, June 18, 2022, between the hours of 5:00 pm and 9:00 pm, within the confines of 103 Main Street had been withdrawn.

A motion was made, seconded, and unanimously voted to ratify the approval of the One-Day Entertainment License for the Essex County Greenbelt Association, Inc., Jane Rumrill, for use on Thursday, June 9, 2022, between the hours of 6:00 p.m. and 8:00 p.m. within the confines of the Cox Reservation at 82 Eastern Avenue, jazz trio to play for private reception inside barn with small sound system.

Chairman Pereen announced that the review and discussion of the following two PERSONNEL BOARD items would be continued to the June 20, 2022 meeting.

- Review and approve a position description for the Parking Enforcement Officer for the Police Department.
- Review and approve a position description for the Traffic Control Officer for the Police Department.

Michael Espinola was removed from the list of re-appointments for Harbormaster's Assistant. Mr. Espinola had recently submitted his resignation effective June 4, 2022.

A motion was made, seconded, and unanimously voted to approve the following appointments/re-appointments and to sign the corresponding appointment cards:

ADA Coordinator for 1 year: William Sanborn

Board of Registrars for 3 years: Eleanor Woulfe

Building Inspector for 1 year: William Sanborn

Building Inspector's Assistant for 1 year: Paul Orlando

Community Preservation Committee for 3 years: Alison Taylor

Council on Aging for 3 years:

- Gil Frieden
- Susan Parady
- Mary Wilhelm

Economic Development Committee for 3 years:

- Margaret Eklind
- Jodi Harris

Electrical Inspector for 1 year: John Shields

Electrical Inspector's Asst. for 1 year: Ramie Reader

Essex Representative 1623 Studios for 2 years: Lisa O'Donnell

Finance Committee for 3 years:

- Joshua Franklin

Harbormaster for 3 years: Daniel C. Fialho

Harbormaster's Assistant for 3 years:

- Ken Wilson

Historic Commission for 3 years:

- Keith Symmes
- Jay Tetzloff

Local Emergency Planning Committee for 1 year:

- Paul Francis
- Michael Galli
- Erin Kirchner
- Ruth R. Pereen
- Ramie Reader

MAPC Representative for 3 years: Peter Phippen

Plumbing & Gas Inspector for 1 year: Richard Corriere

Plumbing-Gas Inspector's Assistant for 1 year: David Pereen

Police Officer, Full-Time for 3 years:

- Daniel Bruce, Sergeant
- Ryan Davis, Sergeant
- Thomas Shamshak, Sergeant
- Alexander Edwards, Detective
- Michael Juliano
- James Romeos
- David Vangelist
- Robert Wheway

Police Officer, Part-Time for 1 year:

- Katelynn Chuilli
- Ryan Devaney
- Brittney Lazarides
- Daniel Morris
- Victor Munoz
- Meaghan Wonson

Shellfish Constable for 3 years: William Knovak

Shellfish Deputy for 3 years: Jude Seminara

Strategic Planning Committee for 1 year:

- Westley Burnham
- Annie Cameron
- Diane Corrao
- Richard Denton
- Jodi Harris
- Ruth Pereen
- Julie Scofield
- Scott Sheppard

Town Clerk for 3 years: Pamela Thorne

Veterans' Graves Officer for 1 year: Chris Osborne

The Board was reminded that their next regular Board of Selectmen's meeting will take place on Monday, June 20, 2022, at 6:00 p.m. in the 2nd Floor Stage Conference area of the Town Hall, 30 Martin Street.

There being no other business before the Board, a motion was made, seconded, and unanimously voted to adjourn the meeting at 8:05 p.m.

Documents used during this meeting include the following:

- Findings of Fact – Riversbend at Essex Marina
- Findings of Fact – Essex County Greenbelt

Prepared by: _____ Attested by: _____
Pamela J. Witham Peter D. Phippen

**Findings of Fact Supporting the Decision to Deny a One-Day
Entertainment License Application**

Riversbend Restaurant – for September 3, 2022

After a public hearing held on June 1, 2022, the Board of Selectmen, in its capacity as the Essex Licensing Board, unanimously decided to deny a one-day entertainment license application for an event to be held at the Riversbend Restaurant on September 3, 2022. The Board hereby makes the following findings of fact in support of that decision:

1. The Riversbend Restaurant has a long history of complaints from individuals in the vicinity of the establishment adversely affected by noise associated with one-day entertainment licenses which allowed amplified music. We rely on the public record relating to past events as an element of our findings;
2. The Applicant's property is in a unique location insofar as it is in an area that is in close proximity to residences, with no natural or other physical barriers to prevent sound from easily carrying to nearby properties, including properties across the marsh;
3. As a result of numerous complaints about outdoor entertainment from this and other establishments, on or about March 8, 2021, the Board of Selectmen enacted a policy that allows outdoor entertainment with amplified music if the Applicant can show that the entertainment will not be audible beyond the boundaries of the applicant's property, or that there are no sensitive noise receptors, such as residences, that will be adversely affected by the entertainment.
4. At the hearing, nine parties spoke and three parties provided written testimony in favor of granting the licenses; and seven parties spoke and eight parties provided written testimony against granting the license;
5. Although some of the affected property owners gave their assent for the event, the majority of affected property owners appeared at the hearing and voiced their objection;
6. The Riversbend Restaurant held a private wedding with outdoor entertainment for a family member in the past, without obtaining permits necessary for a commercial venture, and the event drew complaints from individuals residing in the area. We rely on the public record relating to these complaints;
7. The Board's policy on outdoor entertainment prefers all-acoustic music to amplified music and, while the recorded music on a Bluetooth speaker that was proposed for the wedding ceremony and for an hour thereafter may be reasonably inaudible at the property boundaries, four hours of a six-piece, amplified band playing dance music is not likely to be so contained;
8. The applicant was given the chance to consider an all-acoustic event as a modification of its application but refused. The applicant proposed to change the hours of the proposed event to end at 8:00 p.m. but still desired the amplified band in an outdoor setting. The applicant was given the chance to consider moving the amplified dance music inside the

restaurant but refused since the number of proposed wedding attendees far exceeded the occupancy capacity of the restaurant building;

9. The only mitigation measure proposed by the Applicant was to have the band under a tent enclosed on three sides (initially) and all four sides (later in the hearing) with tent-like material. The Board finds that the use of even four sides of a tent is not sufficient to ensure that the event does not unreasonably increase the level of noise in the area in which the premises are located.
10. Based on these findings, the Board concludes that the license, taken alone or in combination with other licensed activities on the premises, would adversely affect the public health, safety or order, in that the event cannot be conducted in a manner that does not unreasonably increase the level of noise in the area in which the premises are located.

**Findings of Fact Supporting the Decision to Modify a One-Day
Entertainment License Application**

Essex County Greenbelt – for June 10, 2022

After a public hearing held on June 1, 2022, the Board of Selectmen, in its capacity as the Essex Licensing Board, decided by majority vote to grant a one-day entertainment license application, as modified by agreement with the Applicant, for an event to be held at the Essex County Greenbelt's Cox Reservation on June 10, 2022. The Board hereby makes the following findings of fact in support of that decision:

1. Essex County Greenbelt is seeking a one day entertainment license for its annual Art in the Barn event. The original application sought to present amplified music from a live band with electric instruments between the hours of 5:00 p.m. to 8:30 p.m. However, after hearing some of the concerns raised by the Board at its meeting on June 1, 2022, the Applicant agreed to modify the application to limit the entertainment to offer acoustic-only music (i.e. use of instruments without any electric connection or amplification and with no vocal amplification), as opposed to amplified music, during the same hours.
2. This event, with similar live entertainment, has been taking place annually (except during the COVID-19 State of Emergency) on the same property for many years and the Town has no record of complaints about noise from the entertainment;
3. As a result of numerous complaints about outdoor entertainment generally in the Town, on or about March 8, 2021, the Board of Selectmen enacted a policy that allows outdoor entertainment with amplified music if the Applicant can show that the entertainment will not be audible beyond the boundaries of the applicant's property, or that there are no sensitive noise receptors, such as residences, that will be adversely affected by the entertainment. An applicant may also meet this standard by supplying written statements of assent from affected property owners;
4. The Applicant has stated that the purpose of the entertainment that is the subject of this application is to provide soft background music to patrons while they view art displays. In addition, the acoustic, non-amplified music will be played in a "courtyard" area among several buildings that will further serve to dampen the sound. As such, it is not expected that the entertainment will be plainly audible beyond the boundaries of the property;
5. The Applicant provided written statements from some direct abutters to the property, indicating that they have no objection to the event, even with outdoor amplified music;
6. The Board did not receive any objections to the application either through in-person testimony or in writing;
7. Although the Board's policy favors outdoor entertainment that ends by 8:00 p.m., the Board finds that allowing live, acoustic-only entertainment in this location until 8:30 p.m. will not adversely affect the residents in the area;

Based on these findings, the Board concludes that the license, taken alone or in combination with other licensed activities on the premises, will not adversely affect the public health, safety or order, in that the event can be conducted in a manner that does not unreasonably increase the level of noise in the area in which the premises are located.