



# TOWN OF NORFOLK

## SELECT BOARD

ONE LIBERTY LANE  
NORFOLK, MASSACHUSETTS

Blythe C. Robinson  
Town Administrator

(508) 440-2855  
(508) 541-3366 FAX

**In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the September 15, 2020 7:00 PM public meeting of the Norfolk Select Board shall be physically closed to the public to avoid group congregation.**

Alternative public access to this meeting shall be done via Zoom online video conferencing. This application will allow users to view the meeting and provide comments during allocated windows as outlined in the Board's Public Comment Policy. To join, follow the web link or call the dial-in number listed below under the start time/Call to Order. The meeting will be recorded for future rebroadcast by Norfolk Community Television. For more information on getting connected and using the video conference features, please visit

<http://www.norfolk.ma.us/assets/files/news/resident-zoom-guide.pdf>

**7:00 p.m. Call Meeting to Order**

**Zoom Meeting Link: <https://zoom.us/j/3560716045>**

**Zoom Meeting Call-In: 1-929-205-6099 (Meeting ID 3560716045)**

Alternative to Zoom - NCTV live stream of all Town meetings on their YouTube Channel Link: [www.youtube.com/norfolkcable](http://www.youtube.com/norfolkcable)

### **Continued Public Hearing 7:00 PM**

**Continued Public Hearing under G.L. c.140, §157 to determine whether a dog owned by Ms. Melissa Mitchell is a nuisance dog or a dangerous dog**

- 1. COVID-19 Updates**
- 2. Public Comment**

### **Action Items**

- 3. Please consider approval of two items regarding the Lakeland Hills 40B project at 144 Seekonk Street**
  - Approval of a Memorandum of Understanding**
  - Acceptance of a gift of \$25,000 for traffic control**
- 4. Please consider designating the Municipal Approving Authority for Remote Learning Enrichment Programs**

5. Please consider approval of the request by the Garden Club of Norfolk to use Town Hill/Gazebo to hold a club meeting to dedicate the Tree to Essential Workers on Saturday, October 17, 2020, from 10 AM to noon, with a rain date of Sunday, October 18, 2020, from 1 PM to 3 PM
6. Please consider approval of the following two licenses to Zelus Beer Company for pop up beer and BBQ events on Town Hill on Sundays beginning September 20<sup>th</sup>
  - One day beer & wine license
  - Entertainment license for live music

#### Discussion Items

7. Please discuss a proposed update to the Town's General Bylaws – Animal Control regulations
8. Please review a draft list of warrant articles for the November 17, 2020 Special Town Meeting
9. Please discuss website posting of Board correspondence
10. Town Administrator Updates

#### Report of Warrants

11. The following warrants have been signed:
  - 08/28/2020 04P21 & 04PS21 \$449,896.98
  - 09/01/2020 09V21 \$847,786.81
  - 09/08/2020 10VS21 \$82,240.39
  - 09/08/2020 10V21 \$101,728.43

#### Approve Minutes

12. Please consider approval of the minutes

Any other unanticipated business that may come before the Board

**ADJOURNMENT**

  
\_\_\_\_\_  
Blythe C. Robinson, Town Administrator



# TOWN OF NORFOLK

## SELECT BOARD

ONE LIBERTY LANE  
NORFOLK, MASSACHUSETTS

Blythe C. Robinson  
Town Administrator

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September 10, 2020

MEMO TO: Select Board

From: Blythe C. Robinson, Town Administrator *BCR*

RE: **Agenda Background – September 15, 2020**

Below please find background material on each of the items on the agenda as well as draft motions that you can consider where action is required.

Continued Public Hearing under G.L. c.140, §157 to determine whether a dog owned by Ms. Melissa Mitchell is a nuisance dog or a dangerous dog

The Board opened a public hearing on this matter on July 27<sup>th</sup>, and at the end of that meeting decided to continue the hearing until this date so that Counsel for the dog owner could obtain a report from a behaviorist, and any other documents could be submitted for the Board's consideration. Thus, included in your packet are the following:

- Report from James W. Crosby
- Additional records from Mr. Beachkofski
- Incident Report from resident at 96 Boardman Street
- Veterinary bill for Beachkofski's dog Indigo bit in 2017

At the hearing on Tuesday night, Mr. Crosby will be present to discuss his findings. The board can review the attached documents and question the witnesses before deliberating and perhaps reaching a conclusion in this case. We've forwarded Mr. Crosby's report to Ms. Bollen and she will be present should the Board desire her thoughts on this report. Also included in your packet is a copy of the law on this topic. The board can have one of three outcomes in this case; first to take no action, second that the dog is deemed a "nuisance", and finally that the dog be deemed "dangerous". It is important to note that should the board decide that the dog is dangerous the Board can only select from the law one or more of the conditions, and cannot amend any of those conditions. Town Counsel Peter Mello will also be at the meeting for any questions or guidance you seek.

1. COVID-19 Updates

2. Public Comment

3. Please consider approval of two items regarding the Lakeland Hills 40B project at 144 Seekonk Street
  - a. Approval of a Memorandum of Agreement
  - b. Acceptance of a gift of \$25,000 for traffic control

At its meeting on August 19<sup>th</sup> the ZBA approved a comprehensive permit for a 40B development named Lakeland Hills. This project is located at 144 Seekonk Street and will be comprised of 44 units of housing, of which 25% will be affordable. This project was proposed three years ago, and when it was submitted to the Town it was for 104 units. Many aspects of the project have changed in those three years, and due to that Counsel for the ZBA (Daniel Hill) recommends that the details be memorialized in a memorandum of agreement (MOA) which is included in your packet. A key reason for doing so is that once executed, the project cannot be appealed to the State Housing Appeals Committee (HAC). Besides the MOA, there is also a list of conditions that spell out matters such as the types of units, permitting, construction, affordability requirements, open space and so on.

One of those conditions (item G.6) provides the Town with a gift of \$25,000 for "any future improvements that might further improve traffic safety on Seekonk Street in the area of the property". These funds would be deposited in a gift fund account for this purpose, and if not fully spent five years from the date of the issuance of the final occupancy permit, would then be transferred to the Town's sidewalk fund for use by the Town wherever it determines it is needed. Gifts to the Town should be formally accepted by the Select Board, which is why this is also an item on the agenda. Thus, there are two motions below, one to approve the MOA which will then need to be executed by all members of the Board, and a second to vote to accept the \$25,000 gift.

**MOVE** that the Board vote to approve a memorandum of agreement for the Lakeland Hills development project between the Town of Norfolk and Edward and Sandra O'Harte.

**MOVE** that the Board accept a gift in accordance with G.L. c.44 §53A in the amount of \$25,000 for future traffic safety improvements in the area of the property and furthermore, any funds remaining after receipt of final occupancy permits for the project may be deposited into the Town's sidewalk fund for use by the Town.

4. Please consider designating the Municipal Approving Authority(ies) for Remote Learning Enrichment Programs

As you may have heard, the State issued an executive order late last month that provides several ways that communities can expand access to child care as children return to school in the next two weeks. The program enables programs to be set up to accommodate more children being in a supervised environment on the days they aren't in school. A step in becoming approved to offer such a program requires that the municipal CEO (which in Norfolk is the Select Board) to decide who will be the Municipal Approving Authority (MAA), and then that person or persons to verify that a program is eligible once it has been determined that the program meets the new requirements.

Recreation Director Ann Proto has been diligently working to organize programs for Norfolk children. At this point she anticipates being able to offer such a program at the Norfolk Library, Recreation Office in Town Hall, the Grange and St Jude's church, which hopefully will

provide services to as many as 70 children. As you know, Recreation is well versed at program development, and anticipates they could have the program begin as early as September 21<sup>st</sup>. We recommend that Superintendent Allardi be designated as the MAA for programs run by Recreation. We are also aware that Forekicks in Norfolk plans to offer a program, and for that we would recommend that Ann Proto be designated as the MAA for this, as well as any other Town entities that decide to establish a program. We are not aware of any at this time, but some may come forward. Once entities receive a letter of approval from the MAA, they then must submit a package to the State for final approval before commencing a program. Ann Proto intends to be at the meeting on Tuesday night to answer any questions that you may have about this initiative.

**MOVE** that the Board vote to appoint two persons as Municipal Approving Authorities on behalf of the Town of Norfolk; School Superintendent Ingrid Allardi for programs to be offered by the Norfolk Recreation Commission, and Ann Proto for all programs offered by independent entities within the Town of Norfolk.

5. Please consider approval of the request by the Garden Club of Norfolk to use Town Hill/Gazebo to hold a club meeting to dedicate the Tree to Essential Workers on Saturday, October 17, 2020, from 10 AM to noon, with a rain date of Sunday, October 18, 2020, from 1 PM to 3 PM

Over the summer the Board met with representatives of the garden club to obtain their permission to plant a tree on Town Hill to dedicate to essential workers. The club is now requesting permission to have an event on Town Hill to dedicate the tree on Saturday, October 17<sup>th</sup>, with a rain date the following day. The tree was actually planted on September 1<sup>st</sup>. The details of the event are in your packet and all departments have no concerns about it, thus we recommend approval.

**MOVE** that the Board vote to approve of the request by the Garden Club of Norfolk to use Town Hill/Gazebo to hold a club meeting to dedicate the Tree to Essential Workers on Saturday, October 17, 2020, from 10 AM to noon, with a rain date of Sunday, October 18, 2020, from 1 PM to 3 PM.

6. Please consider approval of the following two licenses to Zelus Beer Company for pop up beer and BBQ events on Town Hill on Sundays beginning September 20th
  - One day beer & wine license
  - Entertainment license for live music

Included in your packet is a request from Zelus Beer to hold a series of "beer and BBQ" events on Town Hill starting Sunday, September 20<sup>th</sup> through October. They are a brewery in Medfield that has held similar events there on Saturdays in conjunction with a BBQ restaurant. Our understanding is that these have been popular with residents, and thus this company is requesting to provide similar events here in Norfolk on Sundays. A number of documents regarding this request are included in your packet.

This request if granted as requested would enable them to have seven events from Sept. 20<sup>th</sup> – November 1<sup>st</sup>, with possibly one less if the Garden club rain date is needed

on Oct. 18<sup>th</sup>. Zelus is prepared to meet the normal requirements for a one-day license, and the State's orders related to the COVID pandemic. They would bring and set up tables and chairs for patrons, erect tents, and if approved offer live music, amplified enough so those in attendance can hear it. As you'll see they plan to abide by the request to remove everything after an event so mowing and such can take place, will rope off the area where beer is sold, and will only need electricity if they have music. Although we are still working out some details, they also plan to handle removal of trash generated (there would be overtime costs to the Town if we needed to take care of this on a Sunday). As the Library is closed on Sundays, parking is adjacent to the event.

While we are enthusiastic about this for our residents, it does bring up a couple of points we want you to be aware of. The Town has generally not rented Town Hill to for profit entities (farmers market, cactus society being exceptions). If this event is successful we may want to revisit our Town Hill rules and modify them for the future. Secondly, the BBQ tent would be of a size that requires a permit, and as you know from other requests, a commercial tent permit is \$500. Furthermore, if the tent is erected on a Sunday, it would mean an employee needs to come in to do the inspection on that day, which also represents a cost. This is in part why the fee is charged, so we would urge you to keep that in mind. Outside of this, there would be no income to the Town to pay for these costs. The fees for the one-day beer licenses would be \$25 per each day, and \$100 for the entertainment license and that would cover all of the events. The motions below have been scripted with the assumption that the Board approve the licenses for the full period requested, so if you decide to license them for fewer events or something different, the motions will need to be amended.

**MOVE** that the Board vote to approve the use of Town Hill on Sundays beginning September 20<sup>th</sup> through November 1<sup>st</sup> to Zelus Beer Company, and further, to issue one-day beer and wine licenses for each Sunday during this period.

**MOVE** that the Board vote to issue an entertainment license to Zelus Beer Company for the amplification of music in connection with Beer & BBQ events on Sundays from September 20<sup>th</sup> – November 1<sup>st</sup>.

7. Please discuss a proposed update to the Town's General Bylaws – Animal Control regulations

Earlier this year we identified that the Town's animal control regulations are not up to date, especially as state law regarding the handling of nuisance or dangerous dogs. The law on this topic changed significantly in 2012, and the Town has not updated them in accordance with that. Thus Hilary Cohen, ACO, Town Clerk Carol Greene and I have spent time this summer reviewing approved bylaws from other communities and present the attached draft for discussion. The main areas that are different from the current version include:

- References to Massachusetts G.L. c. 140, §§136A – 174F
- Shortened the licensing period to March 31<sup>st</sup> (state law) and revised the late fee

- Updated the language on restraining orders for situations where there is a time period for a dog hearing decision as we've recently experienced
- Reduces the amount of time to keep dogs impounded and adds cats to this list
- Clarified the violations and penalties regulations and set two different structures, one for dogs roaming at large, and one for dogs deemed a nuisance or dangerous

This document has not yet been reviewed by Town Counsel. Should you wish to proceed to have this on the warrant for the fall town meeting, we would have that done so this proposed bylaw change could be reviewed by Advisory as well. If you'd like more time to consider it, it could be added to the spring annual town meeting warrant.

8. Please review a draft list of warrant articles for the November 17, 2020 Special Town Meeting

The warrant for the Town Meeting to be held on this date closed on September 10<sup>th</sup> per the Board's vote last month. We've drafted a list of articles that contain either regular business for the Town, or articles requested by other boards and that list is attached. We have not received any citizen petitions by this date. The list is fairly short, though we may need to add items that would be under the board's purview as we get further into the fall. The Advisory Committee will have its next meeting on September 16<sup>th</sup> to begin preparing for the town meeting.

9. Please discuss website posting of board correspondence

This item will be appearing on the agendas going forward so that when correspondence comes up that the Board might want to post it can be discussed. For this meeting packet there were no items to consider.

10. Town Administrator Updates

This item is on the agenda in case there are any informational updates on topics in front of the Town that may be of interest to the Board or to the viewing public.

11. The following warrants have been signed:

- 08/28/2020 04P21 & 04PS21 \$449,896.98
- 09/01/2020 09V21 \$847,786.81
- 09/08/2020 10VS21 \$82,240.39
- 09/08/2020 10V21 \$101,728.43

**MOVE** that the Board approve four (4) warrants for the period August 28, 2020 – September 8, 2020 as printed on the agenda for this meeting.

12. Please consider approval of the minutes

**MOVE** that the Board vote to approve the minutes of the August 18 and September 1, 2020 regular meetings.

**Massachusetts G.L. c. 140, §157**

**Part I** ADMINISTRATION OF THE GOVERNMENT

**Title XX** PUBLIC SAFETY AND GOOD ORDER

**Chapter 140** LICENSES

**Section 157** NUISANCE OR DANGEROUS DOGS; ORDERS FOR  
REMEDIAL ACTION; APPEAL; VIOLATION OF ORDER

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Section 157. (a) Any person may file a complaint in writing to the hearing authority that a dog owned or kept in the city or town is a nuisance dog or a dangerous dog; provided, however, that no dog shall be deemed dangerous: (i) solely based upon growling or barking or solely growling and barking; (ii) based upon the breed of the dog; or (iii) if the dog was reacting to another animal or to a person and the dog's reaction was not grossly disproportionate to any of the following circumstances:

- (1) the dog was protecting or defending itself, its offspring, another domestic animal or a person from attack or assault;
- (2) the person who was attacked or threatened by the dog was committing a crime upon the person or property of the owner or keeper of the dog;

(3) the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the dog; or

(4) at the time of the attack or threat, the person or animal that was attacked or threatened by the dog had breached an enclosure or structure in which the dog was kept apart from the public and such person or animal was not authorized by the owner of the premises to be within such enclosure including, but not limited to, a gated, fenced-in area if the gate was closed, whether locked or unlocked; provided, however, that if a person is under the age of 7, it shall be a rebuttable presumption that such person was not committing a crime, provoking the dog or trespassing.

The hearing authority shall investigate or cause the investigation of the complaint, including an examination under oath of the complainant at a public hearing in the municipality to determine whether the dog is a nuisance dog or a dangerous dog. Based on credible evidence and testimony presented at the public hearing, the hearing authority shall: (i) if the dog is complained of as a nuisance dog, either dismiss the complaint or deem the dog a nuisance dog; or (ii) if the dog is complained of as a dangerous dog: (A) dismiss the complaint; (B) deem the dog a nuisance dog; or (C) deem the dog a dangerous dog.

(b) If the hearing authority deems a dog a nuisance dog, the hearing authority may further order that the owner or keeper of the dog take remedial action to ameliorate the cause of the nuisance behavior.

(c) If the hearing authority deems a dog a dangerous dog, the hearing authority shall order 1 or more of the following:

(i) that the dog be humanely restrained; provided, however, that no order shall provide that a dog deemed dangerous be chained, tethered or otherwise tied to an inanimate object including, but not limited to, a tree, post or building;

(ii) that the dog be confined to the premises of the keeper of the dog; provided, however, that "confined" shall mean securely confined indoors or confined outdoors in a securely enclosed and locked pen or dog run area upon the premises of the owner or keeper; provided further, that such pen or dog run shall have a secure roof and, if such enclosure has no floor secured to the sides thereof, the sides shall be embedded into the ground for not less than 2 feet; and provided further, that within the confines of such pen or dog run, a dog house or proper shelter from the elements shall be provided to protect the dog;

(iii) that when removed from the premises of the owner or the premises of the person keeping the dog, the dog shall be securely and humanely muzzled and restrained with a chain or other tethering device having a minimum tensile strength of 300 pounds and not exceeding 3 feet in length;

(iv) that the owner or keeper of the dog provide proof of insurance in an amount not less than \$100,000 insuring the owner or keeper against any claim, loss, damage or injury to persons, domestic animals or property resulting from the acts, whether intentional or unintentional, of the dog or proof that reasonable efforts were made to obtain such insurance if a policy has not been issued; provided, however, that if a policy of insurance has been issued, the owner or keeper shall produce such policy upon request of the hearing authority or a justice of the district court; and provided further, that if a policy has not been issued the owner or keeper shall produce proof of efforts to obtain such insurance;

(v) that the owner or keeper of the dog provide to the licensing authority or animal control officer or other entity identified in the order, information by which a dog may be identified, throughout its lifetime including, but not limited to, photographs, videos, veterinary examination, tattooing or microchip implantations or a combination of any such methods of identification;

(vi) that unless an owner or keeper of the dog provides evidence that a veterinarian is of the opinion the dog is unfit for alterations because of a medical condition, the owner or keeper of the dog shall cause the dog to be altered so that the dog shall not be reproductively intact; or

(vii) that the dog be humanely euthanized.

No order shall be issued directing that a dog deemed dangerous shall be removed from the town or city in which the owner of the dog resides. No city or town shall regulate dogs in a manner that is specific to breed.

(d) Within 10 days after an order issued under subsections (a) to (c), inclusive, the owner or keeper of a dog may bring a petition in the district court within the judicial district in which the order relative to the dog was issued or where the dog is owned or kept, addressed to the justice of the court, praying that the order be reviewed by the court or a magistrate of the court. After notice to all parties, the magistrate shall, under section 62C of chapter 221, review the order of the hearing authority, hear the witnesses and affirm the order unless it shall appear that it was made without proper cause or in bad faith, in which case the order shall be reversed. A party shall have the right to request a de novo hearing on the complaint before a justice of the court.

(e)(1) Pending an appeal by an owner or keeper under subsection (d), a hearing authority may file a petition in the district court to request an order of impoundment at a facility the municipality uses to shelter animals for a dog complained of as being a dangerous dog. A municipality shall not incur liability for failure to request impoundment of a dog under this subsection.

(2) A justice of a district court, upon probable cause to believe that a dog is a dangerous dog or that a dog is being kept in violation of this section or in violation of an order issued under this section by

a hearing authority or a court, may issue an order: (i) of restraint; (ii) of confinement of the dog as considered necessary for the safety of other animals and the public; provided, however, that if an order of confinement is issued, the person to whom the order is issued shall confine the dog in accordance with clause (ii) of subsection (c); or (iii) of impoundment in a humane place of detention that the municipality uses to shelter animals; or (iv) any other action as the court deems necessary to protect other animals and the public from the dog.

(f) A justice of the district court shall hear, de novo, an appeal filed under subsection (d). Based upon credible evidence and testimony presented at trial, the court shall, whether the dog was initially complained of as a nuisance dog or as a dangerous dog: (i) dismiss the complaint; (ii) deem the dog a nuisance dog; or (iii) deem the dog a dangerous dog. The decision of the court shall be final and conclusive upon the parties.

(g) If a court affirms an order of euthanasia, the owner or keeper of the dog shall reimburse the city or town for all reasonable costs incurred for the housing and care of such dog during its impoundment and throughout the appeals process, if any. Unpaid costs shall be recovered by the municipality in which the owner or keeper of the dog resides on behalf of the hearing authority by any of the following methods: (i) a lien on any property owned by the owner or keeper of the dog; (ii) an additional, earmarked charge to appear on the vehicle excise of the owner or keeper of the dog; or (iii) a direct bill sent to the owner or keeper of the dog.

All funds recovered by a municipality under this subsection shall be transferred to the organization or entity charged with the responsibility of handling dog complaints and impoundment. If the organization or entity falls under the management or direction of the municipality, costs recovered shall be distributed at the discretion of the municipality.

If the court overturns an order of euthanasia, the city or town shall pay all reasonable costs incurred for the housing and care of the dog during any period of impoundment.

(h) If an owner or keeper of a dog is found in violation of an order issued under this section, the dog shall be subject to seizure and impoundment by a law enforcement or animal control officer. If the keeper of the dog is in violation, all reasonable effort shall be made by the seizing authority to notify the owner of the dog of such seizure. Upon receipt of such notice, the owner may file a petition with the hearing authority, within 7 days, for the return of the dog to the owner. The owner or keeper shall be ordered to immediately surrender to the licensing authority the license and tags in the person's possession, if any, and the owner or keeper shall be prohibited from licensing a dog within the commonwealth for 5 years. A hearing authority that determines that a dog is dangerous or a nuisance or that a dog owner or keeper has violated an order issued under this section shall report such violations to the issuing licensing authority within 30 days.

(i) Orders issued by a hearing authority shall be valid throughout



# James W. Crosby M.S. Canine Aggression Consulting LLC.

1435 Oak Haven Rd. \* Jacksonville, Florida 32207 \* 904-476-7655 \*  
[canineaggression@gmail.com](mailto:canineaggression@gmail.com)

4 September 2020

Jeremy Cohen, Esq.  
Boston Dog Lawyers  
100 Cummings Center, #207-P  
Beverly, MA

RE: Dog bite to [REDACTED] a Minor, and associated Dangerous Dog proceedings.

I, James W. Crosby, am an adult over the age of 18 years and would be competent to testify if called as a witness in this case. I have been retained regarding the case of a dog bite to a child [REDACTED] by the dog known as Annabelle, who belongs to Melissa Mitchell of Norfolk, Massachusetts on 13 June 2020.

To summarize my qualifications regarding forming opinions about this case: I am a court-recognized expert on dog behavior, dog aggression, and dog bite investigation in a variety of municipalities, states, and in the United States District Court, based on my extensive experience and training. I am a Certified Behavior Consultant-Canine-Knowledge Assessed. I have been working with aggressive and dangerous dogs for over fifteen years. I actively provide training for police departments and animal control agencies regarding dangerous dogs, dog aggression, use of force in canine encounters and the investigation of serious and fatal dog attacks on human victims. Agencies that I have instructed have included the Florida Animal Control Association, the Alabama Animal Control Association, the Colorado Association of Animal Control Officers, the National Animal Control Association, the Alberta Animal Control and Bylaw Officers' Association, the London Metropolitan Police and their Status Dog Unit, and other public and private conferences. I have directly investigated over 30 human fatalities by dogs with on-scene investigations, several of which have resulted in successful criminal prosecution. I have personally investigated fatal dog attacks on human victims in the United States, the United Kingdom, and the Commonwealth of Australia. When unable to respond personally I have consulted on investigation of human fatalities in the United States, the United Kingdom, and India wherein I have rendered opinions. As a result of these investigations I have performed hands-on direct behavioral evaluations of over (50) dogs that have killed human victims. My sworn reports and testimony have been accepted as expert materials in many states and Federal District Courts in the United States, in the Queensland (Australia) Civil and Administrative Tribunal, and in the Crown Court of the United Kingdom.

As to training received regarding animal behavior, I have attended many seminars and training sessions addressing canine behavior. These are listed in the attached CV and include, but are not limited to, advanced canine behavior training, obedience instructor training, dog behavior evaluation, Forensic Animal Behavior Analysis, Bite Prevention for Law Enforcement Officers, and course work taken through the University of Florida on Animal Crime Scenes/Clandestine Grave Investigation and Bite Mark Analysis.

# **James W. Crosby M.S.**

## **Canine Aggression Consulting LLC.**

1435 Oak Haven Rd. \* Jacksonville, Florida 32207 \* 904-476-7655 \*

[canineaggression@gmail.com](mailto:canineaggression@gmail.com)

I received my master's degree in Veterinary Forensics from the College of Veterinary Medicine, the University of Florida. In fulfillment of that degree I completed graduate coursework in Forensic Animal Behavior Analysis, Interpersonal Violence and Animal Abuse, Veterinary Forensic Pathology, Veterinary Forensic Osteology, Animal Law, Scientific and Legal Principles of Evidence, and Forensic Crime Scene Analysis. I have taught canine behavior and assessing behavior problems and aggression across the United States, England, Italy, Poland and Canada.

I am an accepted candidate for the degree of Doctor of Philosophy within the Graduate School of the University of Florida College of Veterinary Medicine. To date I have not only continued my research, but have taken graduate coursework in Skeletal Trauma Analysis, Shelter Behavior and Animal Welfare, Veterinary Forensic Radiology and Imaging, and Working Dogs in Forensic Science (the science and behavior of scent usage in canines).

I am a Certified Animal Control Officer in the State of Florida and I served as the Animal Control Division Manager for Bay County, Florida, from February 2008 to September 2010. During my tenure at Bay County Animal Control my duties included daily shelter management, assuring the safe handling and humane treatment of animals in the care of Bay County Animal Control, investigating complaints of animal neglect and cruelty, overseeing and assisting in animal rescue and capture, response to calls to investigate reported aggressive dogs, and to assist police in animal related calls, and performing investigations and making findings of fact regarding the declaration of Dangerous Dogs under Florida Statute. During that service I did, as part of my duties, declare approximately 71 dogs as legally "Dangerous" in accord with Florida Statute. My training and experience also include certification, training and experience in humane euthanasia of animals and the legal restrictions on methods and reasons for such euthanasia. Due to my experience and duties and the small nature of this agency, I was directly involved with oversight and knowledge of the major complaints and directly interacted with my officers to develop enforcement and education strategies that served to resolve problems, enforce the County Code and State laws, and protect the public from animal-related threats.

I served full-time as Division Management Consultant, acting as Chief, for Jacksonville (FL) Animal Care and Protective Services from March 2016 through December 31, 2016. As such it was my responsibility to oversee all aspects of a major Animal Services agency and the accompanying shelter, including but not limited to the duties previously reported in regard to the Bay County Animal Control Division. These duties included oversight and management of the Veterinary Clinic, Adoptions, Animal Control, animal ordinance enforcement and citation issue, the Foster program, and other functions. Under the provisions of Jacksonville Municipal Ordinance served as designated Hearing Officer for Dangerous Dog cases and did find several dogs legally "Dangerous" under the provisions of Florida Statutes and local Code. I was also, while in an on-site capacity, responsible for the oversight of particular problem areas and sources of repeated complaints and was an integral part of designing and developing both education and enforcement-based solutions to repeated problems. I, due to my experience and duties, was

# **James W. Crosby M.S.**

## **Canine Aggression Consulting LLC.**

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responsible to have oversight and knowledge of the major complaints and directly interacted with my subordinate supervisors to develop enforcement and education strategies that served to resolve problems, enforce the Municipal Codes and State laws, and protect the public. I still function on an as-needed basis as Division Management Consultant for the City of Jacksonville, FL.

Both Jacksonville ACPS and Bay County Animal Control are member organizations of the Florida Animal Control Officers' Association. I have taught portions of the Florida Animal Control Association curriculum for the certification of Animal Control Officers' including perception of threat and use of legal force in animal cases. I was a member of the Board of Directors of the Florida Animal Control Association and, as such, was privy to the discussions regarding establishment of Standards regarding the curriculum. I continue to provide training to members of the Florida Animal Control Association and other agencies. I am a Charter Member of the International Veterinary Forensic Science Association. I am a member of the Board of Directors for the Certification Council for Professional Dog Trainers (CCPDT). I am a member of the National Animal Care and Control Association, and serve on the Training Advisory Board for that organization.

I served as a Police Officer with the Jacksonville Sheriff's Office from 1977 to 1999, performing twenty-two years of active service. During that period, I served as a Patrolman, a Sergeant, and a Lieutenant. My duties as a Patrolman included patrol duties, emergency response, arrests, ordinance violation citation issue, traffic citation issue, and investigations.

As a Sergeant, my duties involved day to day on-scene supervision of call response, major calls and investigations, allegations of misconduct, critical incident response and accountability, and investigating complaints regarding use of force by my officers. Some of these investigations did result in administering or recommending disciplinary action against officers for violating Departmental guidelines and proper procedures for said use of force. I was also extensively trained in the use and regulations of less- and non-lethal force options, including various chemical deterrent materials. These included the use of MACE, CS and CN type tear gasses, and oleoresin capsicum spray, and foggers. I further supervised the enforcement of and issue of citations, both civil and criminal, for State traffic laws and for Municipal Code violations.

As a Lieutenant, my immediate span of control as a Watch Commander ranged up to four (4) Sergeants and forty (40) officers, plus officers in training, at any one time. I served on the Firearms Review Board for the Jacksonville Sheriff's Office, the designated Board that determined whether a discharge of firearms case was justified and reasonable under Florida Statute and Department guidelines. I oversaw the actions and supervisory behaviors of the Sergeants under my command to ensure that they and their officers were following proper policy, procedure, and legal enforcement criteria. In oversight of the Supervisors and Officers I was responsible to ascertain where potential problem areas were, the possible contributing factors to criminal problems and safety risks to the public, and address and oversee response to specific issues. I supervised the overall enforcement of State law and Municipal Code by officers under

# James W. Crosby M.S.

## Canine Aggression Consulting LLC.

1435 Oak Haven Rd. \* Jacksonville, Florida 32207 \* 904-476-7655 \*

[canineaggression@gmail.com](mailto:canineaggression@gmail.com)

my command, including the issuance of traffic related and Municipal code related citations and criminal arrests, and was responsible to ensure that Code and Statutes were enforced fairly, properly, and when appropriate. I was responsible for the initial and/or full investigation of Officers under my command when accused to have used unnecessary or unlawful force, up to and including deadly force. I was also responsible for supervising the Officers under my command for proper deployment of non- or less-lethal force, according to Statute and Department Policy. I have attached a CV to this report detailing my work experience.

As both a Sergeant and a Lieutenant I was trained and designated as a Field Training Officer Supervisor and had day to day responsibility to oversee the training of new officers and new supervisors in Department procedures, job tasks, and supervisory issues including the use of force and investigating cases thereof.

### LIST OF PUBLICATIONS AUTHORED BY JAMES W. CROSBY

Public Service announcements broadcast on WKGC Radio, Panama City, Florida, as part of a recurring program giving pet advice from 2008 through 2009.

Master's Thesis Research (Publication August 2016) "The Use of Specific Evidence in the Investigation of Human Dog Bite Related Fatalities".

Chapter "Investigation of Human Dog Bite Related Fatalities" in *Dog Bites: A Multidisciplinary Approach*, Carri Westgarth PhD and Daniel Mills, PhD, editors, The University of Lincoln Press, Lincoln, Lincolnshire, England, 2017.

Chapter "Anatomy and Morphology of Dog Bites", in *Dog Bites: A Multidisciplinary Approach*, Carri Westgarth PhD and Daniel Mills, PhD, editors, The University of Lincoln Press, Lincoln, Lincolnshire, England, 2017.

Blog "Canine Aggression Blog", [canineaggression.blogspot.com](http://canineaggression.blogspot.com)

Crosby, James W., and Chelsea Rider. 2017. *Changing the Narrative: Improving Law Enforcement and Dog Encounters to Reduce Lethal Incidents and Improve Community Relations with Pet Owners: Literature Review*. Washington, DC: Office of Community Oriented Policing Services.

"Law Enforcement Dog Encounters Training", a full instruction course on safe interactions between police officers and domestic dogs, supported by the National Sheriffs' Association and the National Law Enforcement Center on Animal Abuse, approved and published by the Department of Justice-Office of Community Oriented Policing Services (COPS).

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1435 Oak Haven Rd. \* Jacksonville, Florida 32207 \* 904-476-7655 \*

[canineaggression@gmail.com](mailto:canineaggression@gmail.com)

“Law Enforcement Dog Encounters Training-Toolkit”, a toolkit of policies, Review of Literature, resources, and other pertinent data regarding police encounters with domestic dogs, published by the United States Department of Justice/Office of Community Policing Services, November 2019, DOJ Publication Number

“Dangerous Dog Investigations” in Humane Animal Control: Effective Enforcement, Shelter Management, Local Government Support and Community Engagement, Best Friends Animal Society Publications, Kanab, Utah, 2018.

“Efficacy of the “Fake Dog” test in evaluating possible rehabilitation in a group of documented fighting dogs”, presentation, Animal Behavior Society 2020 Conference, online, July 20, 2020.

COURT CASES JAMES W. CROSBY HAS TESTIFIED IN OR PROVIDED EXPERT OPINION IN DURING THE PAST FOUR (4) YEARS:

2016

R v McGarrity & Dickson [2016] North Tyneside MC, (unreported)  
UK Magistrates’ Court                      Defendant      Dog bite

Bradley Ray Beck Jr. vs Ryan Smith, Spokane County Sheriff’s Department et al.  
Federal                      Plaintiff              Police Shooting

State of Florida v. Javon Dade      Florida                      Circuit (criminal)      Defendant      Fatal dog attack

Faivre v. Murphy (LA).                      Louisiana              Circuit              Plaintiff              Dog bite

Jessica Marquez v. Officer Michael Robinson (Pleasant Hill, CA PD) California      Federal  
Plaintiff              Police Shooting

Bryan and Katherine Thomas v. Ric Bradshaw as Sheriff of Palm Beach County, FL  
Florida                      Federal                      Plaintiff              Police Shooting

2017

Bonnie Lee v. Kern County Probation Department      Federal              Plaintiff              Police Shooting

Steven Cunningham v. United Parcel Service, et al.      Circuit              Plaintiff              Dog Bite

# James W. Crosby M.S. Canine Aggression Consulting LLC.

1435 Oak Haven Rd. \* Jacksonville, Florida 32207 \* 904-476-7655 \*

[canineaggression@gmail.com](mailto:canineaggression@gmail.com)

Almendarez v. the City of Hollywood (FL) et al. Shooting	Federal	Plaintiff	Police
Ksenia Benz v. Andrew Kaupert et al.	Maryland	Circuit	Defendant Dog Bite
2018			
Walker v. North Las Vegas Police Dept. Plaintiff Police Shooting	Nevada		Federal
Wheeler v. City Of Henderson Police Department Plaintiff Police Shooting	Nevada		Federal
Paul Szvoren and Vianna Stewart v. Ohana Animal Rescue and Maricopa County, Maricopa County Animal Care	Arizona	Superior	Plaintiff Dog Bite
Aliado v. Souza and Souza attack	Hawai'i	Circuit	Plaintiff Fatal dog
State of Colorado v. John Doe at large subject (Fremont County Sheriff's Office, Cañon City, Colorado) Homicide	Colorado	Superior	Plaintiff (prosecution) Criminal
2019			
Bradshaw v. Moreton Bay Regional Council [2018] QCATA 140 Queensland Civil and Administrative Tribunal			Queensland, Australia Dog Bite
Villalpando v. Don Bell D/B/A Pencils ETC., et al Dog Attack	Texas	Civil/County	Plaintiff
James v. Maricopa County Animal Services Dog Bite	Arizona	Federal	Defendant
Travis County Texas v. Guzman Criminal Deadly Conduct-Dangerous Dog	Texas	Circuit	Plaintiff (State Prosecutor)
City of Aurora vs. Tracy Prim Dangerous Dog	Colorado	Municipal	Defendant Keeping
State of Texas v. Peter Scott Lucas	Texas	Circuit	Defendant (Public Defender)

# James W. Crosby M.S.

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1435 Oak Haven Rd. \* Jacksonville, Florida 32207 \* 904-476-7655 \*  
[canineaggression@gmail.com](mailto:canineaggression@gmail.com)

Negligent Homicide

Zorich v. Zavorka and St. Louis County Police	Missouri	Federal	Plaintiff
Police Shooting			
Medieros v. Albert Duperre, Chief of Police of the City of Fall River			Massachusetts
District Court	Plaintiff	Dangerous Dog	
Azurdia v. City of New York Police Department	New York	Federal	Plaintiff
Police Shooting			
Wilk v. the City of Concord Animal Services	New York	Municipal	Defendant
Dangerous Dog			
McAfee v. Town of Marlborough	Massachusetts		County
Defendant	Dangerous Dog		
Barbara Schneider, as custodian of the estate of Klonda Richey, v. Mark Kumpf, Montgomery Animal Service Center	Ohio	Federal	Plaintiff
Attack			Fatal Dog
Alvarez v. City of Philadelphia Animal Care and Control Team		Pennsylvania	Circuit
Defendant	Dog Bite		
2020			
State of Georgia vs. Samuel Brown and Angel Brown	Georgia		Circuit
Prosecution	Fatal Dog Attack (Criminal Homicide)		
Karen May v. The Town of Abington, MA	Massachusetts	Municipal	Defense
Dangerous Dog			
Friedel vs. Park Place Community	Florida	Circuit	Defendant
Dog/Civil Eviction			Dangerous
Boring v. City of Worthington, Dubuque Regional Humane Society	Iowa	District	
Cruelty			
Vaseleros-Stevenson v. Calvert County, Maryland	Maryland	Federal	Plaintiff
Police Shooting			
Marie v. Aldritch and Deryckx	Washington	Superior	Plaintiff
			Dog bite.

# James W. Crosby M.S. Canine Aggression Consulting LLC.

1435 Oak Haven Rd. \* Jacksonville, Florida 32207 \* 904-476-7655 \*  
[canineaggression@gmail.com](mailto:canineaggression@gmail.com)

Ressler v. Heisel Florida	Circuit	Plaintiff	Dangerous Dog/Dog Bite
Paradise Island Property vs. George Dog/Civil Eviction	Circuit	Plaintiff	Dangerous
City of Denver Colorado v. Seth King Dog/Dog Bite		Superior Defendant	Dangerous

These cases include cases in which I have appeared both for and against the owners of dogs. This list may expand as currently outstanding cases may be resolved prior to the closure of this case.

#### MATERIALS REVIEWED:

Report of Hilary Cohen, Animal Control Officer, Norfolk Police Department, incident number 2020000005716 and supplementary attachments.

Letter from Melissa Mitchell dated June 19, 2020, to Hilary Cohen, marked “received 6/29/2020 08:39”.

Letter from Steven Connally, owner/operator of “The Dog House”, Westwood, MA.

#### FACTS IN THIS CASE:

- a) The dog in question, known as Annabelle, is a mixed breed dogs belonging to Melissa Mitchell of 90 Boardman St., Norfolk, Massachusetts.
- b) Victim Beachkofski was bitten while playing with the Mitchell child at 90 Boardman St., Norfolk, Massachusetts on 13 June 2020.
- c) At the time of the bite the victim was wearing, on his face, a mask due to COVID-19 concerns. He also stated that he was wearing a hat.
- d) According to the statement of the victim and according to reports submitted, the bite occurred in the back yard of the residence when an adult, Mary-Anne Rampino, took the dog Annabelle out into the yard and secured Annabelle to an overhead wire tether, as they are accustomed.
- e) At the time of the bite, Annabelle was on her own property and was securely attached to the restraining tether unit.
- f) According to the victim, the dog Annabelle bit him one time on the right leg, below the knee, and immediately let go.
- g) Allegations of a previous incident that ‘occurred’ in “...summer or Fall of 2018...” have been introduced. This alleged incident was not reported nor mentioned until Animal Control began

# James W. Crosby M.S.

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1435 Oak Haven Rd. \* Jacksonville, Florida 32207 \* 904-476-7655 \*  
[canineaggression@gmail.com](mailto:canineaggression@gmail.com)

digging into possible past allegations. There is no physical evidence supporting this allegation, and all medical care for that alleged incident was supposedly administered by the “victim’s” mother, who is a Veterinarian and is not licensed to practice medicine upon human patients.

### OPINIONS:

- 1) The dog Annabelle appears to be a mixed breed dog. There are no registration papers for Annabelle that would indicate that she is a pure-bred dog of any particular breed. It is not possible, from appearances, to assess what mix of breeds Annabelle may be. Visual assessment or determination of breed or breed mix has been shown by repeated peer-reviewed studies to be accurate, when conducted by experts, at an accuracy of approximately 26%. Assessment by non-professionals is even more fraught. Thus, any attempt to determine Annabelle’s breed or breed mix by visual assessment is invalid and inaccurate to the point of being useless.
- 2) In addition to the unreliable nature of attempting breed assessment by appearance, it has been shown by genetic research (Irizarry) that the genetic basis for appearance and supposed “breed” is carried by an entirely different set of genetic material from behavior in domestic canines. Thus, visual appearance has no application to anticipating likely behavior.
- 3) The victim states that, at the time of the bite, Annabelle was indeed within the Mitchell property, was attached to her tether/restraint, and that he was within the area accessible to Annabelle.
- 4) It is my professional opinion, based on years working with dogs, advanced training in canine behavior, investigation of a vast number of bites, extensive familiarity with domestic canine body language, understanding of canine perception, and extensive and advanced training and education in the behavior of domestic canines, that:
  - a. The victim child was present in the back yard of the Mitchell home. He was wearing a face covering (re: COVID-19 prevention) and a hat. The face covering was not a usual item of clothing worn by the victim or the Mitchell child prior to the need for protection from the SARS-CoV-2 virus. This change in customary dress began, in earnest, in approximately March of 2020, before the incident.
  - b. Dogs are well-known as sensitive to unfamiliar matters of dress. They are particularly sensitive to differences in coverings of the head and/or the face.
  - c. Annabelle was released into the back yard of the Mitchell home, attached to the accustomed tether device, in the area with which that she normally exercised.
  - d. The boys were playing within the area within which Annabelle was used to exercising. Annabelle was accustomed to exercising without the boys present in tether-controlled area.

# James W. Crosby M.S.

## Canine Aggression Consulting LLC.

1435 Oak Haven Rd. \* Jacksonville, Florida 32207 \* 904-476-7655 \*

[canineaggression@gmail.com](mailto:canineaggression@gmail.com)

- e. The victim was, according to his mother, within the tether-controlled area and, when he saw Annabelle, rose and moved toward the perimeter of the tether-controlled area. The child's mother states that the child walked, but also mentioned in her statement that the child "...knows that the dog doesn't like him and wanted to get away from it." If the victim felt that the dog "did not like him" it is entirely reasonable to expect that the victim may have fled away from Annabelle at more than a walking pace. If such occurred, the fleeing of the child from the dog's accustomed area would be a potential provocation, to the dog, for a pursuit response.
  - f. Annabelle only bit one time, rather than repeated engagements, and immediately ceased when the perceived threat (the child) stepped out of Annabelle's regular territory. Limiting her bite to a single, controlled engagement shows restraint and control by Annabelle.
  - g. Regarding the alleged past bite by Annabelle to another dog whilst running loose; dog-dog aggression is not a positive indicator of human focused aggressive behavior, and is not a reliable predictive factor. Further, the alleged prior incident occurred off property and there were, apparently, no human witnesses to the actual encounter. Also, this encounter occurred whilst the other dog was chasing a rabbit, an attractive prey animal that may have triggered both the pursuit by Annabelle and may have presented a perceived resource that the two dogs were contesting. That situation was not at all reasonably predictive of Annabelle's future behavior around humans, and should thereby not be included in this case as evidence of any propensity or likelihood of future action regarding humans.
- 5) Thus, in my professional opinion, based on extensive training, practice, analysis of dog bite injuries, and to a scientific degree of certainty, that this bite was clearly a result of a child, wearing unfamiliar masking on his face and a hat, venturing into the territory that Annabelle was accustomed to occupying; that the bite by Annabelle was a single engage-and-release, typical of canine warning and territorial behavior; and that the incident completely occurred on the property where Annabelle lived and exercised. This situation, regrettable though it was, was a relatively minor incident, avoidable, and does not indicate behavior that would present a danger to the public or anyone on the Mitchell property as long as they are not present within the area defined by Annabelle's tether restraint. Further, in my experience and training, the behavior of a domestic dog within its own yard, within its accustomed exercise area, and when confronted by a person attired or appearing different than the dog is used to, does not necessarily transfer to any other setting. This protective behavior, precipitated by Annabelle perceiving a potential threat and intruder, is normal in many dogs and is extremely responsive to retraining by a professional.
- 6) The allegations of the previously unreported "incident" that are alleged to have occurred in "...summer or Fall of 2018..." are, in my professional experience and under policies and processes familiar to me as a former Animal Control chief operating officer, not appropriate for consideration in this or any other case. Undocumented allegations are not "best available" evidence as they are neither contemporary nor properly documented. Considering that this

**James W. Crosby M.S.  
Canine Aggression Consulting LLC.**

1435 Oak Haven Rd. \* Jacksonville, Florida 32207 \* 904-476-7655 \*  
[canineaggression@gmail.com](mailto:canineaggression@gmail.com)

“incident” was discovered after justification for the current Dangerous Dog determination was initiated, and that there is no independent documentation of the “incident”, such post-hoc and unsupported report cannot be responsibly used as justification as it does not meet even the basic criteria for documented evidence.

I explicitly reserve the right to add to, amend, expand, change, or clarify my opinions in this case as more information is gathered and provided.

Respectfully submitted,



James W. Crosby, M.S., CBCC-KA

**Additional Documentation for Dog Hearing  
Provided by Brian Beachkofski  
on August 25, 2020**

1. Picture of the wound site about 70 days after the attack
2. Doctor's Notes



Beth Israel Deaconess-Needham  
148 Chestnut Street  
Needham, MA 02492

**ED Physician Report**  
**Signed**

**Patient:** Beachkofski [REDACTED]  
**DOB:** [REDACTED]  
**Age/Sex:** 13 / M  
**Account #:** [REDACTED]  
**MedRec #:** MNC0512798

**Attending MD:** Michael Ganetsky, MD  
**Dictating Provider:** Michael Ganetsky, MD  
**Admit Date:**  
**Discharge Date:**  
**Location:** N.ER

cc: No Primary Care Physician

**HPI**

**Prologue**

Triage Note reviewed: Yes  
Initial Vital Signs reviewed: Yes  
CC being evaluated: Animal Bite  
Historian: Patient and Family  
Primary care physician: Physician No Primary Care

**History of Present Illness**

Narrative: 13-year-old male presents after he was bitten by his neighbor's pit bull in the right leg. Father states the animal control officer was involved and confirmed rabies immunizations for the dog is up-to-date. Patient's immunizations are up-to-date. Complains of right leg laceration

Onset: minute(s)

Timing: Sudden Onset

Location: Extremity Extremity Location: Right and Leg

Context: Other (dog bite)

**ROS**

Constitutional: Absent Fever  
Skin: Laceration

**PMFSHx**

**Past Medical History**

**Immunizations**

Immunization Status: Up To Date

**Surgical History**

Pertinent Past Surgical History: None

**Allergies**

Allergy/AdvReac	Type	Severity	Reaction	Status	Date / Time
No Known Allergies	Allergy			Verified	06/13/20 19:16

**Signed**  
Health Information Management 0613-01173  
Page 1 of 3

06/16/2020 4:10PM (GMT-04:00)

Patient: Beachkofski [REDACTED]  
DOB: [REDACTED]  
Age/Sex: 13 / M  
Account #: [REDACTED]  
MedRec #: MN00512798

Attending MD: Michael Ganetsky, MD  
Dictating Provider: Michael Ganetsky, MD  
Admit Date:  
Discharge Date:  
Location: N.ER

### Social History

Is the patient a current/former smoker or user of tobacco products?: No  
Travel within last 2 months: No

### Family History

Family history: No Significant Inheritable Disorder

## Physical Exam

### Physical Exam

Vital Signs:

### Vital Signs

Temp	Pulse	Resp	BP	Pulse Ox
98.4 F	94	18	140/85	100
06/13/20 18:23	06/13/20 18:23	06/13/20 18:23	06/13/20 18:23	06/13/20 18:23

General: Alert

Cardiovascular/Chest: Other (2+ right DP pulse)

Extremity: Other (No bony tenderness of right lower leg)

Neurological: Other (Normal right foot motor and sensory exam)

Skin: Other (He has 2 lacerations on his right lower leg medial portion, the superior one is a V-shaped 2 cm flap, the inferior 1 is a 4 cm gaping laceration that is into the subcutaneous fat with subcutaneous fat protruding, There appears to be a tissue defect of the inferior laceration)

## Procedures

Consent Obtained: Permit was implied secondary to emergent situation

Consent Given By: Guardian

Provided supervision?: Yes

Supervision Certification: I was physically present for the key portion of the laceration repairs

## MDM

Medical Decision Making: Patient with dog bite to his right lower leg. He does not need rabies postexposure prophylaxis given the dog's rabies immunization was verified. Even though this is a dog bite, these lacerations are quite keeping with a likely tissue defect so will attempt loose edge approximation with debridement and skin undermining. Will place on Augmentin and refer to plastic surgeon for possible revision.

### Additional Information

COVID19: A public health emergency existed at time of encounter and Personal protective equipment was used

### Disposition

Clinical Impression:

Dog bite, Laceration of leg, right

Signed  
Health Information Management 0613-01173  
Page 2 of 3

06/16/2020 4:10PM (GMT-04:00)

Patient: Beachkofski, [REDACTED]  
DOB: [REDACTED]  
Age/Sex: 13 / M  
Account #: [REDACTED]  
MedRec #: MN00512798

Attending MD: Michael Ganetsky, MD  
Dictating Provider: Michael Ganetsky, MD  
Admit Date:  
Discharge Date:  
Location: N ER

Disposition: Discharged

Condition: Improved

**Attestation for Attending**

Attest to Resident Note: As attending physician, I confirm that I have examined the patient, directed the key/critical aspects of the patient's care, and discussed the evaluation and plan of care and disposition of the patient with the resident.

---

Documented By: Michael Ganetsky, MD 06/13/20 1853

Signed By: <Electronically signed by Michael Ganetsky, MD> 06/13/20 1919

Transcribed By: Michael Ganetsky, MD 06/13/20 1853

**Signed**  
Health Information Management 0613-01173  
Page 3 of 3

06/16/2020 4:10PM (GMT-04:00)

Beth Israel Deaconess-Needham  
148 Chestnut Street  
Needham, MA 02492

**ED Physician Report**  
**Signed**

Patient: Beechkoński [REDACTED]  
DOB: [REDACTED]  
Age/Sex: 13 / M  
Account #: [REDACTED]  
MedRec #: MN00512795

Attending MD: Michael Ganetsky, MD  
Dictating Provider: Deesha Sharma, MD  
Admit Date:  
Discharge Date: 06/13/20  
Location: N.ER

cc: No Primary Care Physician

**ADDENDUM**

Procedure notes:

Right leg laceration #1: 2 cm "V" shaped laceration. Local anesthesia with 1% lidocaine, irrigated extensively, edges loosely approximated with nylon 4-0 #2 Interrupted in 1 layer.

Right leg laceration #2: 4cm, deep into subq fat and gaping with narrow flap. Local anesthesia with 1% lidocaine. Protruding subcutaneous fat debrided. Edges were undermined so that they could be approximated. Edges loosely approximated with nylon 4-0 #3 Interrupted in 1 layer.

Patient tolerated both procedures well And wounds were dressed afterwards.

---

Addendum Documented By: Michael Ganetsky, MD 06/13/20 2224  
Addendum Signed By: <Electronically signed by Michael Ganetsky, MD> 06/13/20 2224

cc: No Primary Care Physician

---

**HPI**

**Prologue**

Triage Note reviewed: Yes

Initial Vital Signs reviewed: Yes

CC being evaluated: Animal Bite

Primary care physician: Physician No Primary Care

**History of Present Illness**

Narrative: Please see attending note for documentation. Please see below for procedure note

**PMFSHx**

**Signed with Addenda**  
Health Information Management 0613-01189  
Page 1 of 3

06/16/2020 4:10PM (GMT-04:00)

Patient: Beachkofski [REDACTED]  
DOB: [REDACTED]  
Age/Sex: 13 / M  
Account #: [REDACTED]  
MedRec #: MND005127569

Attending MD: Michael Gznetsky, MD  
Dictating Provider: Deesha Sharma, MD  
Admit Date:  
Discharge Date: 06/13/20  
Location: N ER

### Past Medical History

Pertinent Past Medical History: None  
[REDACTED]

### Immunizations

Immunization Status: Up To Date

### Surgical History

Pertinent Past Surgical History: None

### Recent Rx's

Medication	Instructions	Recorded
amoxicillin-pot clavulanate [Augmentin]	14.52 ml PO Q8H 10 Days #348.48 ml	06/13/20

### Allergies

Allergy/AdvReac	Type	Severity	Reaction	Status	Date / Time
No Known Allergies	Allergy			Verified	06/13/20 19:16

### Social History

Is the patient a current/former smoker or user of tobacco products?: No

Travel within last 2 months: No

### Family History

Family history: No Significant Inheritable Disorder

### Physical Exam

#### Physical Exam

Vital Signs:

#### Vital Signs

Temp	Pulse	Resp	BP	Pulse Ox
98.4 F	94	18	140/85	100
06/13/20 18:23	06/13/20 18:23	06/13/20 18:23	06/13/20 18:23	06/13/20 18:23

### Procedures

Consent Obtained: Yes risks, benefits & alternatives were discussed

Consent Given By: Patient

### MDM

Signed with Addenda  
Health Information Management 0613-01169  
Page 2 of 3

06/16/2020 4:10PM (GMT-04:00)

Patient: Beachkofsk [REDACTED]  
DOB: [REDACTED]  
Age/Sex: 137 M  
Account #: [REDACTED]  
MedRec #: MN00312798

Attending MD: Michael Ganetsky, MD  
Dictating Provider: Deesha Sharma, MD  
Admit Date:  
Discharge Date: 06/13/20  
Location: N.ER

**Disposition**

Clinical Impression:

Dog bite, Laceration of leg, right

Disposition: Discharged

---

Documented By: Deesha Sharma, MD 06/13/20 1917  
Signed By: <Electronically signed by Deesha Sharma, MD> 06/13/20 1940

Transcribed By: Deesha Sarma, MD 06/13/20 1917

Signed with Addenda  
Health Information Management 0813-01189  
Page 3 of 3

06/16/2020 4:10PM (GMT-04:00)

**Encounter Status**

Closed by Mark Ryan, MD on 6/16/20 at 10:24 PM

MRN: 40939836

Beachkofski, [REDACTED]

**Office Visit** 6/16/2020

Holliston Pediatrics - Milford

Provider: Mark Ryan, MD (Pediatrics)

Primary diagnosis: Laceration of skin of right lower leg, initial encounter

Reason for Visit: Animal Bite

**Progress Notes**

Mark Ryan, MD (Physician) • Pediatrics

**Subjective**Chief Complaint

Animal Bite (6/13/20 - bit by friends pitbill (up to date on vaccines))

History of Present Illness

[REDACTED] Beachkofski is a 13 yr 5 mo male who presents to the office with his father. [REDACTED] is here at HPG for the first time. [REDACTED]

He was bitten on the RIGHT leg by a friends dog on 6/13/2. The dog's rabies vaccination was Up to date. He was in his usual state of good health before this occurred. He was seen at Beth Israel Deaconess-in Needham. There, he was evaluated, and the lacerations were cleaned, and sutured. He tolerated this well. He was given Augmentin to prevent infection. He feels well otherwise. No fever, no nasal congestion, no cough, no wheezing, no SOB, no ST, no ear pain, no HA, no Abd pain, no vomiting, no rashes, has normal appetite, taking fluids well, urinating normally, no diarrhea or constipation. He is here for a follow-up, and also because he needs a referral to plastic surgeon. He and Dad report that there has not been redness, swelling, or discharge. His pain is improving.

Review of Systems

## Review of Systems

Constitutional: Negative for activity change, appetite change and fever.

HENT: Negative for congestion, ear discharge, ear pain, rhinorrhea and sore throat.

Eyes: Negative for discharge and redness.

Respiratory: Negative for cough, shortness of breath and wheezing.

Cardiovascular: Negative for chest pain.

Gastrointestinal: Negative for abdominal pain, constipation, diarrhea and vomiting.

Genitourinary: Negative for decreased urine volume and dysuria.

Skin: Positive for wound (as note this is healing. ). Negative for rash.

Neurological: Negative for headaches.

Problem List

## Patient Active Problem List

## Diagnosis

- [REDACTED]

[REDACTED]

Medications

Marked as "Taking"

Medication	Sig
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Allergies

Allergies

Allergen	Reactions
[REDACTED]	[REDACTED]

**Objective**

Vital Signs

Temp 97.9 °F (36.6 °C) | Wt 77 lb (34.9 kg)

Physical Exam

GEN: Well appearing, alert, no acute distress.  
 HEAD: Normocephalic, atraumatic.  
 EYES: Conjunctiva clear, no discharge, eyelids wnl.  
 EARS: TMs wnl bilaterally.  
 NOSE: No rhinorrhea, no nasal congestion.  
 ORAL: Moist mucous membranes. No lesion, no erythema, exudate or petechiae.  
 NECK: Supple, no significant adenopathy.  
 COR: RRR, nml S1 and S2, no rubs, murmurs, or gallops.  
 PULM: Clear to auscultation. No grunting, flaring, or retracting.  
 ABD: Soft, non-distended, non-tender, no organomegaly.  
 BACK: No CVA tenderness  
 EXT: Warm, well perfused.  
 MUSC: No gross deformity. Gait/movement wnl for age.  
 SKIN: No rash. There is are two lacerations on his RIGHT lower leg medially. The superior one is a V-shaped 2 CM laceration with 2 sutures in place. The inferior one is 4 CM, also with edges well opposed, and 3 sutures are in place. There was minimal surrounding erythema, no induration, no exudate.  
 NEURO: Mental status wnl for age, no gross deficits

Labs

No results found for any visits on 06/16/20.

**Assessment/Plan**

**Assessment and Plan**

[REDACTED] was seen today for animal bite.

**Laceration of skin of right lower leg, initial encounter (Primary)**

**Dog bite of lower leg, right, initial encounter**

Keep area clean, and dry, apply topical antibiotic (such as neosporin/bacitracin) to injury three times/day for 7 days. If signs of infection occur (discussed) call for an appointment. I gave Dad a list of Plastic surgeons. He should complete the course of Augmentin.

**Instructions**

 Return if symptoms worsen or fail to improve.

AVS without Meds (Automatic SnapShot taken 6/16/2020)

**Additional Documentation**

Vitals: Temp 97.9 °F (36.6 °C) Wt 77 lb (34.9 kg)

Encounter Info: Billing Info, History, Allergies

**Orders Placed**

None

**Medication Changes**

As of 6/16/2020 4:07 PM

None

**Visit Diagnoses**

Laceration of skin of right lower leg, initial encounter S81.811A

Dog bite of lower leg, right, initial encounter S81.851A, W54.0XXA

Beth Israel Deaconess-Needham  
148 Chestnut Street  
Needham, MA 02492

**Consultation Report**

Patient: Beachkofski [REDACTED]  
DOB: [REDACTED]  
Age/Sex: 13 / M  
Account #: [REDACTED]  
MedRec #: MN00512798

Attending MD:  
Dictating Provider: Mark K. Markarian, MD  
Admit Date:  
Discharge Date: 06/23/20  
Location: N.ER

cc: Ryan, Mark; Shamai A. Grossman, MD

REASON FOR CONSULTATION:  
Open leg wound.

HISTORY OF PRESENT ILLNESS:  
This is a 13-year-old boy who was bit by a neighbor's dog, a pitbull, on June 13. He subsequently had his laceration repaired in the emergency room and was discharged home. He started having symptoms of wound dehiscence and concerns of infection, and presents to the emergency room today. Plastic Surgery was consulted for evaluation. The patient has maintained his antibiotics that he was given and has not had any subjective fevers or chills.

PAST MEDICAL HISTORY:  
[REDACTED]

PAST SURGICAL HISTORY:  
None.

MEDICATIONS:  
[REDACTED]

ALLERGIES:  
No known drug allergies.

SOCIAL HISTORY:  
Patient is going into 8th grade.

EXAMINATION:  
The patient has on his right lower extremity, around the calf area medially, a dehisced wound. There are prior nylons in the wound that have separated from one of the edges and dehiscence is readily appreciated with devitalized skin and devitalized subcutaneous tissue, some necrotic skin, and exposed muscle belly. There is fibinous exudate over the wound. The necrotic skin appears to be along the superior aspect of the wound. There is an area approximately 3 cm superiorly that has dehisced with necrotic skin, and a small 5 mm skin nylon separating the superior aspects of the laceration from the inferior 4 cm aspect of the laceration. There is no significant erythema, fluctuance, or purulent drainage.

ASSESSMENT AND PLAN:  
This is a 13-year-old boy with a dehisced wound from prior trauma repair of his right leg. The plan will be to debride the wound and attempt secondary closure. I suspect the inferior aspect of the wound may be

Signed  
Health Information Management 0525-00523  
Page 1 of 2

07/31/2020 12:16PM (GMT-04:00)

Patient: Beachkofski [REDACTED]  
DOB: [REDACTED]  
Age/Sex: 13 / M  
Account #: [REDACTED]  
MedRec #: MN00512798

Attending MD:  
Dictating Provider: Mark K. Markarian, MD  
Admit Date:  
Discharge Date: 06/23/20  
Location: N, ER

able to be closed secondarily via complex closure, but the superior aspect of the wound will likely need to be reconstructed with local tissue rearrangement. Risks and benefits of the procedure were explained to the patient and his mother to include infection, bleeding, risk of injury to structures near area of surgery, scarring, and need for further surgery. It was emphasized that the scar will be likely lengthened from what it is now. Again, patient and his mother understood all these risks and agreed to proceed with surgery. The patient will also be maintained on Augmentin for another week.

Dictated By: Mark K Markarian, MD

MKM:Modi 9616474  
D: 06/25/2020 08:18:07 T: 06/25/2020 09:50:47  
DOCUMENT: 736372/884183504

Documented By: Mark K. Markarian, MD 06/25/20 0818  
Signed By: <Electronically signed by Mark K. Markarian, MD> 06/28/20 0659

Copies to:

Signed  
Health Information Management 0625-00523  
Page 2 of 2

07/31/2020 12:16PM (GMT-04:00)

Beth Israel Deaconess-Needham  
148 Chestnut Street  
Needham, MA 02492

**Operative Note**

Patient: Beachkofski, [REDACTED]  
DOB: [REDACTED]  
Age/Sex: 13 / M  
Account #: [REDACTED]  
MedRec #: MN00512798

Attending MD:  
Dictating Provider: Mark K. Markarian, MD  
Admit Date:  
Discharge Date: 08/23/20  
Location: N ER

cc: Ryan, Mark, Shamal A. Grossman, MD

DATE: 06/23/2020

ASSISTANT:

**PREOPERATIVE DIAGNOSIS:**

Dehiscenced right lower extremity wound from prior trauma closure, 7 cm.

**POSTOPERATIVE DIAGNOSIS:**

Dehiscenced right lower extremity wound from prior trauma closure, 7 cm.

**PROCEDURES:**

1. Debridement of right lower extremity wound, skin, subcutaneous tissue, and muscle, 7 cm x 3 cm.
2. Secondary closure of inferior 4 cm dehiscence via complex closure.
3. Local tissue rearrangement to reconstruct dehiscenced trauma closure, 4 cm x 4 cm.

**ANESTHESIA:**

Local anesthesia

**INDICATIONS:**

Please see consultation note.

**DESCRIPTION OF PROCEDURE:**

The patient was prepped and draped in the standard sterile fashion. Devitalized skin along the anterior aspect of the superior 3 cm laceration was sharply excised with scissors to healthy skin. Devitalized skin along the posterior aspect of the superior 3 cm laceration was sharply excised with scissors to healthy skin. Devitalized subcutaneous tissue along the anterior aspect of the superior 3 cm laceration was sharply excised with scissors to healthy subcutaneous tissue. Devitalized subcutaneous tissue along the posterior aspect of the superior 3 cm laceration was sharply excised with scissors to healthy subcutaneous tissue. Devitalized muscle fascia and muscle along the posterior aspect of the superior 3 cm laceration were sharply excised with scissors to healthy muscle fascia. Then, the inferior 4 cm laceration was evaluated. Devitalized skin along the posterior aspect of the inferior 4 cm laceration was sharply excised with scissors to healthy skin. Devitalized skin along the anterior aspect of the inferior 4 cm laceration was sharply excised with scissors to healthy skin. Devitalized subcutaneous tissue along the posterior aspect of the inferior 4 cm laceration was sharply excised with scissors to healthy subcutaneous tissue. Devitalized subcutaneous tissue along the anterior aspect of the inferior 4 cm laceration was sharply excised with scissors to healthy subcutaneous tissue. Devitalized muscle fascia along the inferior 4 cm laceration was sharply excised with scissors to healthy muscle fascia.

Signed  
Health Information Management 0625-00920  
Page 1 of 3

07/31/2020 12:16PM (GMT-04:00)

Patient: Beachkofski [REDACTED]  
DOB: [REDACTED]  
Age/Sex: 13 / M  
Account #: [REDACTED]  
MedRec #: MN00312793

Attending MD:  
Dictating Provider: Mark K. Markarian, MD  
Admit Date:  
Discharge Date: 05/23/20  
Location: N ER

Approximately 4 cm x 3 cm was debrided along the inferior aspect of the laceration, consisting of skin, subcutaneous tissue, and muscle fascia. Approximately 3 x 3 cm of skin, subcutaneous tissue, and muscle fascia was debrided along the superior 3 cm aspect of the dehisced laceration.

The entire aspect of the wound, both the 3 cm superior laceration and the 4 cm inferior laceration, was significantly undermined in the subcutaneous tissue, plan to attempt secondary closure by direct approximation. The inferior aspect of the laceration was able to be reapproximated with minimal tension, but the superior aspect of the laceration was unable to be approximated without significant tension. The decision was then made to perform local tissue rearrangement to close the superior aspect of the 3 cm laceration, and direct reapproximation was performed to close the inferior 4 cm dehiscence secondarily, via complex closure. The superior aspect of the laceration was approached first. The inferior skin bridge was transected and rotated superiorly to cover the defect while reapproximating the posterior skin and subcutaneous tissue flaps for closure with minimal tension. This was secured with 4-0 Monocryl for the deep dermal and 4-0 Monocryl for the superficial skin. There was an area of 4 cm x 4 cm of local tissue rearrangement of skin and subcutaneous tissue at the superior laceration dehiscence.

Then, the inferior 4 cm dehisced laceration was approached. The subcutaneous tissue plane was undermined significantly as mentioned, and direct reapproximation was performed. 4-0 Monocryl was utilized to reapproximate the deep dermal layer, while at the same time taking bites of muscle fascia to eliminate dead space. Several rounds of 4-0 Monocryl through deep dermal layers on both the anterior and posterior aspects of the skin and subcutaneous tissue flaps and muscle fascia were performed to reapproximate the skin and eliminate dead space to reduce the risk of any fluid collections or bleeding. 4-0 Monocryl was also utilized for individual deep dermal layers without muscle fascia reapproximation. 4-0 Monocryl was then also utilized for the superficial skin closure. Bacitracin and a compressive dressing were applied.

#### FINDINGS:

Dehisced traumatic closure measuring 7 cm in length total, with approximately 3-4 cm of separation in the anterior-posterior direction. The inferior 4 cm of right leg wound dehiscence was able to be closed secondarily via significant undermining primarily. The superior 3 cm of the dehisced right lower extremity laceration was unable to be closed secondarily via primary reapproximation and had to be repaired via local tissue rearrangement of an area of total 4 cm x 4 cm. Please note, significant debridement of devitalized skin, devitalized subcutaneous tissue, and devitalized muscle fascia was performed over an approximately 3-4 cm open wound. The entire debrided area was approximately 7 cm x 3 cm of skin, subcutaneous tissue, and muscle fascia.

#### SPECIMENS:

None.

#### COMPLICATIONS:

None.

#### DISPOSITION:

Patient stable to be discharged home on antibiotics.

Dictated By: Mark K Markarian, MD

Signed  
Health Information Management 0625-00920  
Page 2 of 3

07/31/2020 12:16PM (GMT-04:00)

Patient: Beachkofski [REDACTED]  
DOB: [REDACTED]  
Age/Sex: 137 M  
Account #: [REDACTED]  
MedRec #: MN00512798

Attending MD:  
Dictating Provider: Mark K. Markarian, MD  
Admit Date:  
Discharge Date: 06/23/20  
Location: N.ER

MKM:Modl 13341102  
D: 06/25/2020 08:29:30 T: 06/25/2020 11:44:27  
DOCUMENT: 736376/884184487

Documented By: Mark K. Markarian, MD 06/25/20 0829  
Signed By: <Electronically signed by Mark K. Markarian, MD> 06/28/20 0659

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Health Information Management 0625-00920  
Page 3 of 3

07/31/2020 12:16PM (GMT-04:00)

Beth Israel Deaconess-Needham  
148 Chestnut Street  
Needham, MA 02492

**ED Physician Report**  
**Signed**

Patient: Beachkofski [REDACTED]  
DOB: [REDACTED]  
Age/Sex: 13 / M  
Account #: [REDACTED]  
MedRec #: MIN00512798

Attending MD: Shamai A. Grossman, MD  
Dictating Provider: Shamai A. Grossman, MD  
Admit Date:  
Discharge Date: 06/23/20  
Location: N,ER

cc: Ryan, Mark

**HPI**

**Prologue**

Triage Note reviewed: Yes  
Initial Vital Signs reviewed: Yes  
CC being evaluated: Wound/Laceration  
Historian: Patient and Family  
Primary care physician: Ryan, Mark

**History of Present Illness**

Narrative: 15 yo presents after R leg wound stitched last week, now with open section, no bleeding, Denies fevers but has some local pain, no redness no discharge. Had not had a dog bite as the initial precipitant

Onset: hour(s)

Timing: Gradual

Radiation: None

Migration to: None

Severity: Mild

Exacerbated by: Movement

**ROS**

All systems: reviewed and negative except as stated

Constitutional: Absent Fever and Chills

MSK: Joint Pain; Absent Edema

Skin: Absent Rash

Neuro: Absent Weakness and Numbness

**PMFSHx**

**Past Medical History**

Pertinent Past Medical History: None  
[REDACTED]

**Immunizations**

Immunization Status: Up To Date

**Surgical History**

Signed

Health Information Management 0625-00518

Page 1 of 3

07/31/2020 12:16PM (GMT-04:00)

Patient: Beachkofski [REDACTED]  
DOB: [REDACTED]  
Age/Sex: 13 / M  
Account #: [REDACTED]  
MedRec #: MN00512788

Attending MD: Shamal A. Grossman, MD  
Dictating Provider: Shamal A. Grossman, MD  
Admit Date:  
Discharge Date: 06/23/20  
Location: N, ER

Pertinent Past Surgical History: None

#### Allergies

Allergy/AdvReac	Type	Severity	Reaction	Status	Date / Time
No Known Allergies	Allergy			Verified	06/13/20 19:16

#### Social History

Is the patient a current/former smoker or user of tobacco products?: No  
Alcohol use frequency (days/week): 0  
Travel within last 2 months: No

#### Physical Exam

##### Physical Exam

Vital Signs:

##### Vital Signs

Temp	Pulse	Resp	BP	Pulse Ox
98 F	77	17	100/52	100
06/23/20 16:17	06/23/20 16:17	06/23/20 16:17	06/23/20 16:17	06/23/20 16:17

General: Well Developed

Neck: Supple

Respiratory: No Respiratory Distress

Cardiovascular/Chest: Chest expanded

Abdomen: Soft

Back: Other (nl inspection)

Extremity: No calf tenderness (there is no significant edema but there is dehiscence of his laceration on his lower extremity)

Neurological: Alert, Oriented X3, No Gross Weakness, Speech Normal and Normal Sensation

Skin: Dry

Psychological: Mood/Affect Normal

#### MDM

Medical Decision Making: wound dehiscence post suture last week, plastic surgery was called per family request and patient was seen by them wound was opened and reapproximated, plan for discharge with his follow-up on Augmentin

#### Additional Information

Discussed with: Patient and Family

#### Disposition

Clinical Impression:

Laceration, Dehiscence of laceration wound

Disposition: Discharged

Signed

Health Information Management 0625-00518

Page 2 of 3

07/31/2020 12:16PM (GMT-04:00)

Patient: Beechkofski [REDACTED]  
DOB: [REDACTED]  
Age/Sex: 13 / M  
Account #: [REDACTED]  
MedRec #: MN00512798

Attending MD: Shamai A. Grossman, MD  
Dictating Provider: Shamai A. Grossman, MD  
Admit Date:  
Discharge Date: 06/23/20  
Location: N.ER

**Attestation for Attending**

Attest to primary note: As attending physician and I cared for this patient primarily.

Documented By: Shamai A. Grossman, MD 06/25/20 0950

Signed By: <Electronically signed by Shamai A. Grossman, MD> 06/25/20 0955

Transcribed By: Shamai A. Grossman, MD 06/25/20 0950

Signed  
Health Information Management 0625-00518  
Page 3 of 3

07/31/2020 12:16PM (GMT-04:00)

**Norfolk Police Department**  
**14 Sharon Ave**  
**Norfolk, Massachusetts**  
**(508) 528-3206**  
**Incident Report**



**Incident Number: 202000007441**  
**File No: N/A**  
**Dispatch Incident Number: N/A**  
**Print Date: September 1, 2020**  
**Printed By: hcohen**

Incident Information											
Occurred On/From	Day of Week	Date	Time	Occurred To	Day of Week	Date	Time	Reported On	Date	Time	
	Wed	07/29/2020	9:21:00AM		Wed	07/29/2020	9:21:00AM	→	7/29/2020	9:25:00AM	
Reported As FOLLOW UP TO DANGEROUS DOG				Incident Type - Primary Animal Complaint			Arresting Officer				
Incident Address 117 MAIN ST, NORFOLK, MA 02056							Reporting Officer Hillary Cohen (HNP1)				
Sector NORTH		Stat. Area		Sub Stat. Area		Census Tract		Landmark			
Business Name N/A				Incident Types - Other				Action Taken Assisted Party			

Related Incident Summary			
Incident No.	Date	Nature	Notes
No Related Incidents reported for Incident #: 202000007441			

**Incident Remarks:**  
LEFT VOICEMAIL FOR 96 BOARDMAN STREET REGARDING A DOG BITE THAT HAD HAPPENED PREVIOUSLY (UNREPORTED) INVOLVING THE DOG AT 90 BOARDMAN STREET.

Associated Persons Summary						
Type	Name (Last, First, MI)	Date of Birth	Sex	Home Phone #	Cell Phone #	Work Phone #
Involved	DALE, JI		F	N/A		N/A
Address: 96 BOARDMAN ST, NORFOLK, MA 02056						
Owner	MITCHELL, MELISSA ANNE		F		N/A	N/A
Address: 90 BOARDMAN ST, NORFOLK, MA 02056						

Associated Businesses Summary			
Type	Name	Primary Phone #	Secondary Phone #
No Associated Businesses reported for Incident #: 202000007441			

Involved Officers			
Officer Title	Officer Name	Officer Type	Division
N/A	Hillary N Cohen	Reporting Officer	Animal Control

IBR/UCR Offenses				
Offense Number	IBR Type	Chapter	Section	Statute ID / IBR Type Description
No Incident Offenses Recorded for Incident #: 202000007441				

Complaint Charges				
Seq #	Chapter	Section	Name (Last, First, MI)	Description of Offense
No Complaint Offenses Recorded for Incident #: 202000007441				

Vehicle Info					
Reg Plate - State (Year)	Vehicle Year, Make, Model	VIN	Primary Color	Second Color	Insurance Co.
No Vehicle Info Recorded for Incident #: 202000007441					

Property
No Property Info reported for Incident #: 202000007441

Citations					
Citation No	Code	Date	Status	Statute	Description
No Citations reported for Incident #: 202000007441					

**Norfolk Police Department**  
**14 Sharon Ave**  
**Norfolk, Massachusetts**  
**(508) 528-3206**  
**Incident Report**



**Incident Number: 202000007441**  
**File No: N/A**  
**Dispatch Incident Number: N/A**  
**Print Date: September 1, 2020**  
**Printed By: hcohen**

Permits					
Permit No	Type	Issue Date	Expire Date	Status	Issued To/Notes
No Permits recorded for Incident #: 202000007441					

**Narratives for Incident Number 202000007441 ? Yes**

**Other Narratives not authorized for print? None**

**Narratives this user authorized to print:**

**Narrative by: Hillary Cohen (HNP1) Division: Animal Control**

<u>Date &amp; Time</u>	<u>Narrative Description</u>	<u>Entered by</u>	<u>Status</u>	<u>Reviewed by</u>	<u>Last Edit Date</u>
07/29/2020 10:39		Hillary Cohen (HNP1)	Open		07/29/2020

**THIS REPORT MAY OR MAY NOT CONTAIN ALL INFORMATION KNOWN TO THE NORFOLK POLICE DEPARTMENT OR THE NORFOLK ANIMAL CONTROL DEPARTMENT**

On 7/29/2020 I, ACO/SPO Cohen, placed a call to the residence of 96 Boardman Street, Norfolk, MA inquiring about a dog bite that happened in the past involving the dog that resides at 90 Boardman Street, Norfolk, MA. I left a voicemail message.

At 09:29AM I received a called back from a Dale, the owner of 96 Boardman Street. Dale stated that she was willing to speak regarding the incident that had previously transpired which involved her son, (currently : years old) and the dog Annabelle owned by Melissa Mitchell.

During our conversation the following facts:

Dale is a practicing veterinarian so she understands both sides of a dog bite situation and that was a precipitating reason why she did not report the incident. Dale stated that her son, , was at the Mitchell residence of 90 Boardman Street on a play date, and that Melissa Mitchell knew the children were playing there. Dale stated that Annabelle was tied up on her runner during this incident and was upon the property. Dale stated that she and her son knew that the dog didn't like her son, but unfortunately went too close to where the dog was tied. Dale further went on to say that was bitten twice, once in each cheek of his buttocks. The bite broke the skin on both cheeks. Dale states she treated her child at home for the injuries until they healed. Dale states that there is scarring on both buttocks.

Dale also relayed that Melissa Mitchell carried back to his home at 96 Boardman Street to return him to Dale. When asked when this happened Dale stated that she believes it was the summer or fall of 2018 as , was wearing shorts but that she could look back through her text messages as she had several text messages between herself and Mitchell. Dale also stated that her child is no longer allowed to go over to their property any longer due to this incident.

Dale also stated that Mitchell contacted her saying that she was going to have a dog trainer come out and when that trainer does come, could participate in the training process.

\_\_\_\_\_  
*Signature - Reporting Officer*

\_\_\_\_\_  
*Signature - Reviewing Officer*



Town of Norfolk

Judith Lizardi &lt;jlizardi@norfolk.ma.us&gt;

---

**Additional Documents for Dangerous Dog hearing**

2 messages

---

Sarah Durand <sarah.e.durand@gmail.com>  
To: Judith Lizardi <jlizardi@norfolk.ma.us>  
Cc: Brian Beachkofski <beachkofski@gmail.com>

Wed, Jul 29, 2020 at 12:19 PM

Hi Judith,

Attached please find vet visit summary and bill from Annabell's bite to our dog, Indigo, in July 2017.

Best, Sarah Durand

---

**4 attachments**

-  July 2017 Incident p 1 of 4.pdf  
299K
-  July 2017 Incident p 2 of 4.pdf  
362K
-  July 2017 Incident p 3 of 4.pdf  
381K
-  July 2017 incident p 4 of 4.pdf  
182K

---

Judith Lizardi <jlizardi@norfolk.ma.us>  
To: Kevin Kalkut <kkalkut@norfolk.ma.us>, Carolyn Van Tine <cvantine@norfolk.ma.us>, Anita Mecklenburg <amecklenburg@norfolk.ma.us>, "Peter L. Mello" <pmello@mhl.com>, Jeremy Cohen <jcohen@bostondoglawyers.com>, Blythe Robinson <brobinson@norfolk.ma.us>, Hilary Cohen <hcohen@norfolk.ma.us>  
Cc: beachkofski@gmail.com, sarah.e.durand@gmail.com, Nancy Langlois <nlanglois@norfolk.ma.us>

Thu, Jul 30, 2020 at 8:25 AM

Good Morning,

Attached please find additional documents provided by Ms. Durand for the dangerous dog hearing.

Please do not hesitate to contact me should you have any questions.

Best,  
Judith

[Quoted text hidden]

--

**Judith Lizardi**

Executive Assistant  
Town Administrator's Office  
Town of Norfolk  
One Liberty Lane  
Norfolk, MA 02056  
(508) 528-1408

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**4 attachments**

-  July 2017 Incident p 1 of 4.pdf  
299K
-  July 2017 Incident p 2 of 4.pdf  
362K
-  July 2017 Incident p 3 of 4.pdf  
381K
-  July 2017 incident p 4 of 4.pdf  
182K



# Pawsitively

Mobile Veterinary Services

95 Washington Street  
Suite 104  
Canton, Massachusetts, 02021  
**Ph:** 781-816-7297  
**Fax:** 781-476-8313  
**Email:** mgerber@pawsmobile.vet  
**Website:** www.pawsmobile.vet

**BILL TO**

Sarah Durand  
94 Boardman  
Street  
Norfolk,  
Massachusetts,  
02056

**INVOICE**

DATE: 401711  
07-06-2017  
PATIENT: Indigo  
CONSULT: 301569

DESCRIPTION	QTY	TOTAL
House Call- Zone 2	1	\$55.00
Examination- Medical Condition	1	\$59.00
Wound Care (clip and clean)	1	\$45.00
OstiLox (meloxicam) Oral Suspension 1.5mg/mL 10mL Bottle	1	\$29.15
Clavamox Tabs 250mg Batch(s):CM2516016-A	28	\$87.20
Elizabethan Collar 25cm	1	\$15.00
Meloxicam 5mg/mL Injection	0.71	\$38.11

**PAYMENT TERMS: COD**

Payment in full is expected upon completion of treatment.  
Administration fees and collection fees will be applied to  
overdue accounts.

Subtotal \$328.46  
Exc. TAX \$8.21  
**Total \$336.67**  
Paid \$0.00  
**Due \$336.67**



# Pawsitively

## Mobile Veterinary Services

Pawsitively Mobile Veterinary Services  
95 Washington Street  
Suite 104  
Canton, Massachusetts, 02021  
Phone: 781-816-7297  
Email: mgerber@pawsmobile.vet

### CLINICAL SUMMARY

**Animal Number:**  
100242

**Clinical Record:**  
301569

**Record Date:**  
07-06-2017

**Attending Vet:**  
Michael D. Gerber, DVM

#### Client Details

**Name** Durand, Sarah  
**Address** 94 Boardman Street  
Norfolk, Massachusetts,  
02056  
**Phone** 513-238-6602

#### Patient Details

**Name** Indigo  
**Species** Canine  
**Breed** Standard Poodle  
**Age** 11 months  
**Sex** Female Spayed

Thursday the 6th of July 2017

#### Presenting Problem(s)

Bite Wound

#### Health Status

**Weight(lb):** 39.00  
**H.R.:** 100  
**R.R.:** 30  
**B.C.S:** 5.0/9.0  
**Pain:** 2/4  
**Dental:** 0/4  
**CRT:** 1-2 sec  
**MM:** Pink  
**Attitude:** BAR

#### History

Indigo presents for evaluation of a bite wound inflicted by the neighbor's dog this afternoon. That dog is current on its rabies vaccine and is now undergoing a ten day quarantine. Indigo is otherwise doing well. She is on Interceptor Plus and Bravecto. The wound is on the left hind leg.

#### Physical Exam(s)

**General Appearance:** Bright, alert and responsive, good body condition

**Body Condition Score:** 5/9

**Hydration:** Hydration appears normal

**Eyes:** Corneas clear, pupils normal size, symmetrical, sclera white, no ocular discharge

**Ears:** No exudate observed, no redness present

**Oral Cavity:** Teeth are free from excessive tartar, no gingivitis present

**Nasal Cavity:** No obvious abnormalities observed

**Cardiovascular:** Regular rhythm; no murmur detected

**Respiratory:** Lungs auscultate clear; trachea clear

**Abdomen:** Abdomen palpates normally

**Rectal:** Did not perform rectal exam

**Musculoskeletal:** Normal ambulation

**Integument:** Bite wound: single puncture wound on lateral aspect of left femoral region, There is an abrasion adjacent to the puncture. Minimal pocketing associated with bite wound.

**Lymph Nodes:** Lymph nodes are all normal in size

**Urogenital:** Owner reports normal eliminations; external genitalia appears normal; bladder palpates normally

**Neurologic:** No apparent abnormalities

**Options Offered to Owner or Agent:** Antibiotics

**Options Elected by Owner or Agent:** Owner authorizes recommended treatment

**Prognosis:** Good

**Attending Veterinarian:** Michael D. Gerber, DVM

#### **Assessment(s)**

11 mo FS Standard Poodle  
Bite wound- dog fight

#### **Plan(s)**

Applied sterile lubricant over wound prior to clipping. Clipped wound; probed with 18 gauge IV catheter. Flushed with approximately 350mL of sterile saline. Fitted patient with Elizabethan collar. Gave 0.71mL Meloxicam SQ. Patient going home with Metacam and Clavamox. Warm compress wound 3-4 times daily. Recheck if worse or no improvement.

#### **Medication(s)**

**Prescribed By:** Michael D. Gerber, DVM

28 x Clavamox Tabs 250mg

*Give 1 tablet by mouth once every 12 hours with food. Discontinue and call if any vomiting and/or diarrhea. Finish all doses.*

#### **Medication(s)**

**Prescribed By:** Michael D. Gerber, DVM

1 x OstiLox (meloxicam) Oral Suspension 1.5mg/mL 10mL Bottle

*Using the provided dosing syringe, give the 40 pound dose orally once a day with food as needed for pain. Discontinue if any vomiting, diarrhea or inappetence.*

#### **Medication(s)**

**Prescribed By:** Michael D. Gerber, DVM

0.71 x Meloxicam 5mg/mL Injection

*Given SQ*

#### **Therapeutic(s) / Procedure(s)**

**House Call- Zone 2**

**Client Name:** Sarah Durand

**Patient Name:** Indigo

◆ **Therapeutic(s) / Procedure(s)**

**Examination- Medical Condition**

◆ **Therapeutic(s) / Procedure(s)**

**Wound Care (clip and clean)**

## MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (the “Agreement”) is made this \_\_\_ day of September, 2020 by, between and among **Lakeland Hills, LLC** and **Edward B. O’Harte and Sandra A. O’Harte** of 136 Seekonk Street, Norfolk, Massachusetts 02056, on behalf of themselves and their heirs, successors, assigns and nominees (the “LLC”, “O’Harte”, and collectively, the “Developer”), and the **Town of Norfolk**, acting by and through its Select Board (“Town”), with an address of 1 Liberty Lane, Norfolk, Massachusetts 02056.

WHEREAS, on or about August 30, 2017, Lakeland Commons, LLC and Lakeland Hills, LLC filed applications for comprehensive permits under M.G.L. c. 40B, §§ 20-23, with the Norfolk Zoning Board of Appeals (“ZBA”) for a total of 104 residential units (28 rental and 76 homeownership, hereinafter referred to as the “Project”), on approximately 21.22 acres of land located at 144 Seekonk Street in Norfolk, being the land shown on Land Court Plan 43114 filed in the Norfolk District of the Land Court (the “Project Site”), and which said land is currently owned by O’Harte;

WHEREAS, the commencement of the ZBA’s public hearing was initially stayed by operation of Chapter 40B regulation 760 CMR 56.05(3), there being at the time three comprehensive permit applications pending before the ZBA that collectively proposed the construction of more than 200 housing units;

WHEREAS, on December 7, 2018, Lakeland Commons, LLC and Lakeland Hills, LLC, which are both controlled by O’Harte, filed an amended comprehensive permit application that merged the “Lakeland Commons” component into the “Lakeland Hills” component of the Project, reducing the density to 96 units, and making all of the units “for sale;”

WHEREAS, the ZBA opened a public hearing on the amended application for the Project on June 5, 2019 and held continued sessions of the public hearing regularly after that date;

WHEREAS, during the course of the ZBA’s public hearing, the ZBA received substantial evidence on several design components of the Project, including public safety and environmental impacts, and the Developer further amended the application to reduce the density to 84 housing units;

WHEREAS, in an effort to resolve outstanding public safety and environmental concerns with the 84-unit Project, and to avoid potential appeals and litigation, the ZBA has requested and the Developer has agreed to make further adjustments to the design of the Project that substantially mitigate those concerns, which are reflected in a revised site plan showing 44 housing units; and

WHEREAS, the Select Board has agreed to recommend to the ZBA approval of a revised project consisting of 44 housing units, conditioned on the terms set forth herein.

NOW THEREFORE, for adequate consideration, the receipt and sufficiency of which are hereby acknowledged the Developer and the Town agree as follows:

**1. Amended Plans for Revised Project**

On March 31, 2020, the Developer submitted a revised site plan showing a modification of the Project, reducing the density to 44 units and making other substantive changes to the design of the Project and its utility infrastructure (the “Revised Project”). The Developer’s 44-unit plan was presented to the ZBA during a continued session of the public hearing held on April 1, 2020. The ZBA instructed its peer review engineer to review the revised plan and provide comments to the ZBA at its next hearing, and the ZBA circulated the revised plan to other Town boards and officials for comment. The Developer subsequently made some minor changes to the layout of the lots and roadway in the northeast corner of the Project Site, which have been incorporated into the 44-unit plan, which is attached hereto as Exhibit A and which depicts the Developers proposed revised project in preliminary schematic form (the revised plan shall hereinafter be referred to as the “44-Unit Plan”). The Developer shall continue to pursue and prosecute its application for approval of the project as shown in schematic form on the 44-Unit Plan in good faith, to finality of the comprehensive permit, in accordance with the set of proposed conditions that the Town and the Developer have developed, which are attached as Exhibit B (the “Conditions”).

**2. Restriction on Use of Project Site.**

If the ZBA issues a comprehensive permit for the Revised Project as shown in schematic form on the 44-Unit Plan and in accordance with the Conditions, the Project Site shall be developed in substantial and material conformity with the 44-Unit Plan and the Conditions. The Revised Project shall be limited to 44 housing units, of which at least 16 units shall be single-family detached homes on individual lots, and the remaining units may be contained in structures containing no more than two units each (“duplexes”), all as depicted on the 44-Unit Plan or as otherwise allowed by the Conditions. There shall never be more than 44 housing units on the Project Site, and the Project Site shall never be divided or subdivided so as to create additional housing units or any other uses of the Project Site that are not accessory to the residential uses in the Project. The Developer agrees that the Project Site will be encumbered by a land use restriction contained herein (Sections 5 and 6 and Addendum I), restricting the use of the Project Site for the term of the restriction, specifically prohibiting the construction or maintenance of any additional units of housing, any expansion or material changes of the parking areas, driveways or other areas used for vehicular access or storage, and any other material change to the Project infrastructure, utilities, landscaping, or amenities without the Town’s consent. The

land use restriction contained herein shall be senior to all other encumbrances and run to the benefit of the Town.

**3. No Appeals; Joint Defense**

If the ZBA issues a comprehensive permit for the Revised Project as shown on the 44-Unit Plan and in accordance with the Conditions, the Developer shall not appeal the comprehensive permit. In the event that a third party appeals a comprehensive permit for the Revised Project, the Developer and the Town through town counsel will use best efforts to defend the ZBA's comprehensive permit decision. The Select Board shall provide the ZBA with defense counsel to defend the ZBA's decision. The Select Board shall not contest the Developer's applications for other project-related permits, either directly or indirectly, provided that the Revised Project is in compliance with the statutes and bylaws applicable to said permits. Nothing herein shall be construed so as to prevent Developer from abandoning the Revised Project in the Developer's discretion as further described in Section 4.

**4. Termination**

(a) If despite the diligent, good faith efforts by the Developer, (i) the ZBA issues a comprehensive permit materially inconsistent with the Conditions in Exhibit B; or (ii) the Developer is denied an Order of Conditions from the Norfolk Conservation Commission and the Department of Environmental Protection under the state Wetlands Protection Act; or (iii) the Developer is denied permits to construct wastewater management utilities from the Norfolk Board of Health under Title V of the State Environmental Code (collectively, the "Permits") for the Revised Project, the Developer or the Select Board may terminate this Agreement with notices in accordance with Section 7 below and thereupon this Agreement shall be null and void, and the Parties shall have no further obligations to or recourse against one another with respect to this Agreement, except pursuant to this Section 4. If the Developer is granted the Permits, it may not terminate this Agreement for cause under this Section, unless the Permits are appealed by a third party and despite the Developer's diligent good faith efforts the permits and approvals are annulled by a court of competent jurisdiction.

(b) In the event that, for any reason or no reason, the Developer determines not to proceed with the Revised Project, including, but not limited to, the Developer's decision to abandon the Revised Project and/or the Developer's election not to prosecute or defend any appeal regarding any aspect of the Revised Project, the Developer may terminate this Agreement upon written notice to the Town, provided that no termination shall be effective unless and until the Developer has relinquished all rights in the comprehensive permit for the Revised Project in a form satisfactory to the Town counsel, and has withdrawn all pending applications for related permits and approvals for the Revised Project. In the avoidance of doubt, the parties agree that the execution and recording of an affidavit by the Developer in the chain of title to the Project Site affirmatively relinquishing its rights in the comprehensive permit shall satisfy this condition

## 5. The Developer's Covenants

The Revised Project and Conditions shall be subject to, and shall conform to, the following restrictions, which shall be incorporated into the Conditions in the ZBA's comprehensive permit decision and shall constitute independently enforceable land use restrictions as further provided in Section 6:

a. The Project Site shall be developed in substantial and material conformity with the 44-Unit Plan (Exhibit A) and the Conditions, provided that the parties acknowledge and agree that the 44-Unit Plan shows the Revised Project in preliminary schematic form and details of the Revised Project may change during final plan approval as provided in the Conditions, so long as such changes are consistent with the intent of this Agreement. The Revised Project shall not exceed 44 housing units, of which at least 16 units shall be single-family detached dwellings on individual lots, and the remaining units may be contained in structures containing no more than two units each ("duplexes"), all as depicted on the 44-Unit Plan. There shall never be more than 44 housing units on the Project Site, and the Project Site shall never be divided or subdivided so as to create additional housing units or any other uses of the Project Site that are not accessory to the residential uses in the Revised Project. It is the parties' intent to allow for the construction of 44 homes on the Project as generally shown in preliminary schematic form on the 44-Unit Plan.

b. No portion of the Project Site shall ever be used as vehicular access to any other land. The roadway shown on the 44-Unit Plan shall never serve any uses other than the 44 housing units shown on the plan and any uses accessory thereto.

c. At least 25% of the housing units on the Project Site shall be restricted for sale to households earning no greater than 80% of the area median income ("AMI"), and shall be sold and re-sold at prices that are affordable to households earning no greater than 80% of said AMI (the "Affordable Units"), with income and price restrictions adjusted for household size based on bedroom count, all of which shall be determined by applicable guidance issued by the Department of Housing and Community Development and the Project's subsidizing agency, or in its absence, by the federal Department of Housing and Urban Development or other qualified agency reasonably acceptable to the ZBA. The Developer shall cooperate with any efforts to include and maintain the Affordable Units on the Town's Chapter 40B Subsidized Housing Inventory.

d. The alignment of the Revised Project roadway to Seekonk Street shall be as shown on the 44-Unit Plan and WSP's February 12, 2020 Memo (the "WSP Memo") regarding the revised roadway, to maximize available stopping and intersection sight distances for vehicles on the Revised Project roadway and on Seekonk Street. The Developer shall perform any vegetation clearing or grading within the Seekonk Street right-of-way necessary to provide optimal sight distances, and shall comply with any other traffic safety requirements or provide traffic mitigation as may be required by the Conditions.

e. The land interior to the loop road as generally depicted in schematic form on the 44-Unit Plan as the "Open Space Parcel" shall remain in its natural vegetated state except for (i)

any temporary clearing during construction, and grading (permanent or otherwise) necessary to construct the Project, the Project roadway and any drainage structures approved by the Zoning Board during the final approval process; (ii) any temporary construction-period staging and stockpiling of equipment or materials that the ZBA's Consulting Engineer confirms is unavoidable (meaning that there are no viable alternative locations for the same); and (iii) any permanent drainage structures, housing units and driveways shown on the 44-Unit Plan as being within the Open Space parcel, or as may be approved by the Zoning Board during final approval, as all of which may be further regulated by the conservation restriction provided in Section 6 below. Nothing herein shall prevent the maintenance of trees and vegetation within this area consistent with good forestry practices and as permitted under the conservation restriction. The parties acknowledge that the Conditions require that the loop road be reconfigured in connection with a settlement agreement with the owner of 14 Stop River Road and the loop road may otherwise be reconfigured during the final approval process, as may be approved by the Zoning Board; therefore, the size and configuration of the Open Space Parcel as shown on the 44-Unit Plan is not intended to define the Open Space Parcel with finality.

## **6. Land Use Restrictions.**

a. Following the issuance of the Permits for the Revised Project, but prior to the exercise and/or transfer of the Permits and, and prior to the transfer of any title interest in the Project Site (excluding a transfer to the LLC), O'Harte or the LLC shall file the Declaration of Restrictive Covenants set forth in Addendum I to this Agreement (the "Declaration") in the Norfolk Registry District of the Land Court, which shall constitute land use restrictions encumbering the Project Site. Additionally, simultaneously with the execution of this Agreement the Developer shall execute a second original of the Declaration in recordable form and deliver the executed Declaration to the Town's counsel to be held in escrow pending the issuance of the Permits and after the completion of any appeals or the expiration of appeal periods, as the case may be. It is the parties' intention that O'Harte or the LLC shall file the executed Declaration immediately preceding any construction loan or other mortgage or lien in the chain of title. Any transfer of a title interest to the Project Site, voluntary or otherwise, prior to the filing of the executed Declaration shall constitute a breach of this Agreement, except for a transfer of title to the LLC, the parties' intention being that the LLC is bound by the terms of this Agreement notwithstanding any transfer of a membership or other beneficial interest in the LLC. The Town and Developer shall cooperate with each other to facilitate the orderly and timely filing of the Declaration. The Developer shall deliver any document or amend any existing documents, including the Declaration, reasonably necessary to effectuate the provisions of this paragraph or required by the Registry of Deeds or Land Court for filing purposes.

b. The land use restrictions contained herein shall be referenced in the Master Deed and/or bylaws of any condominium or homeowners' association(s) within the Project Site.

c. The Developer shall execute and convey a perpetual conservation restriction encumbering the Open Space Parcel as provided herein. The restriction shall be conveyed to the Norfolk Conservation Commission in the form attached as Exhibit B. The Developer shall convey the restriction at least prior to the issuance of the final certificate of compliance under the Wetlands Protection Act by the Conservation Commission for the roadway and related

infrastructure, and at least prior the issuance of the 40<sup>th</sup> occupancy permit for residential units within the Revised Project.. If the Commission declines to accept the restriction, then the restriction shall be conveyed to a land trust or non-profit organization acceptable to the Select Board. Alternatively, the Developer may convey the fee in the Open Space to the Conservation Commission. Any restriction or deed to the Open Space shall reserve to all owners of lots or homes within the Revised Project an easement to access the Open Space for passive recreation, subject to use restrictions as the Conservation Commission or alternative non-profit organization may impose.

**7. Notices.**

Any notice, consent, demand or other communication to be delivered to a party under this Agreement (each, a “Notice”) shall be in writing and may be delivered by hand delivery or by reputable overnight delivery service, addressed as follows, or to any other address identified by notice to the parties below:

If to the Town:

Select Board  
Town of Norfolk  
1 Liberty Lane  
Norfolk, MA 02056

*with copy to:*

Daniel C. Hill, Esq.  
HILL LAW  
6 Beacon Street, Suite 600  
Boston, MA 02108  
dhill@danhilllaw.com

If to the Developer:

Edward B. O’Harte and Sandra A. O’Harte  
136 Seekonk Street  
Norfolk, MA 02056

*with copy to:*

Christopher Agostino, Esq.  
Ruberto Israel & Weiner PC  
255 State Street, 7<sup>th</sup> Floor  
Boston, MA 02109

**8. Enforceability.**

The Developer agrees that it shall have at the time of the recording of the Declaration, good and marketable title to the Project Site free and clear of any lien or encumbrance, except any subordinate liens or encumbrances. The Developer further agrees that neither O’Harte nor the LLC shall transfer their rights in any comprehensive permit issued by the ZBA or any interest in the Project Site without securing from the transferee an agreement to be bound to the terms of

this Agreement in form reasonably acceptable to the Town's counsel to ensure perpetual enforceability of this Agreement, the intent of the Parties being that this Agreement shall run with the land. The parties acknowledge that a transfer of a membership or beneficial interest in the LLC does not constitute a breach of this term, provided that the LLC remains bound to the terms of this Agreement. Further, a transfer of the comprehensive permit and/or an interest in the Project Site to a third party shall not be consummated until after the recording of the Declaration pursuant to Section 6, and the Parties agree that the Town may seek recourse for any breach of this condition through an action brought by the Town in the Massachusetts Land Court to set aside the transfer. Upon a finding or judgment for the Town in such action to set aside a transfer that wasn't involuntary, Developer and its successor(s) shall be jointly and severally liable for the Town's reasonable attorney fees in the prosecution of such action. The Developer states that the LLC (i) is a limited liability company duly organized under the laws of the Commonwealth of Massachusetts, and is qualified to conduct business under the laws of the Commonwealth of Massachusetts, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this instrument.

**9.** As long as the Developer is not in breach of this Agreement after notice and opportunity to cure, the Board shall support a petition by the Developer and its successors for acceptance of the Revised Project's roadway as a public way, on the condition that the roadway and all related infrastructure has been completely installed and completed as required by the Conditions of the comprehensive permit, and the Developer is not otherwise in violation of any Conditions of the comprehensive permit.

**10.** This Agreement shall be governed by and construed and enforced in accordance with the substantive laws of the Commonwealth of Massachusetts, is to take effect as a sealed instrument, sets forth the entire contract between the Parties, and may be canceled, modified or amended only by a written instrument executed by the Town and the Developer. For purposes of construction, this Agreement shall not be deemed to have been drafted by any one party and any ambiguity in this Agreement shall not be construed against any one party.

**11.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns, directors, officers, representatives, stockholders, managers, members, heirs, devisees, executors, administrators, and parent companies.

**12.** This Agreement may be executed in counterparts, each of which will be deemed to be an original, and all of which together shall be deemed to be one and the same instrument. A facsimile or electronic signature shall be as binding as an original signature.

Signed as a sealed instrument this \_\_\_\_ day of September, 2020.

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Edward O'Harte

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Sandra A. O'Harte

LAKELAND HILLS, LLC

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By: Edward O'Harte, Manager

TOWN OF NORFOLK, MASSACHUSETTS,

By its Select Board,

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**EXHIBIT A to MOU**

**44-UNIT PLAN**

**EXHIBIT B to MOU**

**Proposed Conditions and Waiver Decision**

**EXHIBIT C to MOU**  
**Conservation Restriction**

## ADDENDUM I

### DECLARATION OF RESTRICTIVE COVENANTS

For One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **Lakeland Hills, LLC** and **Edward B. O'Harte and Sandra A. O'Harte** of 136 Seekonk Street, Norfolk, Massachusetts 02056 (the "**LLC**", "**O'Harte**", and collectively, the "**Developer**" or "**Grantor**"), GRANT to the **Town of Norfolk**, acting by and through its Select Board, and its successors and assigns (the "**Town**" or "**Grantee**"), with an address of 1 Liberty Lane, Norfolk, Massachusetts 02056, the covenants set forth below.

#### RECITALS

**WHEREAS**, on or about August 30, 2017, Lakeland Commons, LLC and Lakeland Hills, LLC filed applications for comprehensive permits under M.G.L. c. 40B, §§ 20-23, with the Norfolk Zoning Board of Appeals ("**ZBA**") for a total of 104 residential units (28 rental and 76 homeownership, hereinafter referred to as the "**Project**"), on approximately 21.22 acres of land located at 144 Seekonk Street in Norfolk, being the land shown on Land Court Plan 43114 filed in the Norfolk District of the Land Court (the "**Project Site**" or the "**Burdened Premises**");

**WHEREAS**, Seekonk Street (the "**Benefitted Premises**") is a public way owned by the Town, and provides the sole means of access and egress to the Project;

**WHEREAS**, on December 7, 2018, Lakeland Commons, LLC and Lakeland Hills, LLC, which are both controlled by O'Harte, filed an amended comprehensive permit application that merged the "Lakeland Commons" component into the "Lakeland Hills" component of the Project, reducing the density to 96 units, and making all of the units "for sale;"

**WHEREAS**, the ZBA opened a public hearing on the amended application for the Project on June 5, 2019 and held continued sessions of the public hearing regularly after that date;

**WHEREAS**, during the course of the ZBA's public hearing, the ZBA received substantial evidence on several design components of the Project, including public safety and environmental impacts, and the Developer further amended the application to reduce the density to 84 housing units;

**WHEREAS**, in an effort to resolve outstanding public safety and environmental concerns with the 84-unit Project, and to avoid potential appeals and litigation, the ZBA has requested and the Developer has agreed to make further adjustments to the design of the Project that substantially mitigate those concerns, which are reflected in a revised site plan showing 44 housing units; and

**WHEREAS**, the Select Board agreed to recommend to the ZBA approval of a revised project consisting of 44 housing units (the “**Revised Project**”), conditioned on the Developer imposing certain restrictive covenants to run with the land and enforceable by the Select Board.

**NOW THEREFORE**, for adequate consideration, the receipt and sufficiency of which are hereby acknowledged the Developer and the Town agree as follows:

1. The Project Site shall be developed in substantial and material conformity with the 44-Unit Plan (Exhibit A) and as otherwise allowed by the conditions of approval set forth in the Comprehensive Permit for the Revised Project (the “Conditions”). The Revised Project shall not exceed 44 housing units, of which at least 16 units shall be single-family detached dwellings on individual lots, and the remaining units may be contained in structures containing no more than two units each (“duplexes”), all as depicted on the 44-Unit Plan and as required by the Conditions. There shall never be more than 44 housing units on the Project Site, and the Project Site shall never be divided or subdivided so as to create additional housing units or other any other uses of the Project Site that are not accessory to the residential uses in the Revised Project.

2. No portion of the Project Site shall ever be used as vehicular access to any other land. The roadway shown on the 44-Unit Plan shall never serve any uses other than the 44 housing units shown on the plan and any uses accessory thereto.

3. At least 25% of the housing units on the Project Site shall be restricted for sale to households earning no greater than 80% of the area median income (“AMI”), and shall be sold and re-sold at prices that are affordable to households earning no greater than 80% of said AMI (the “Affordable Units”), with income and price restrictions adjusted for household size based on bedroom count, all of which shall be determined by applicable guidance issued by the Department of Housing and Community Development and the Project's subsidizing agency, or in its absence, by the federal Department of Housing and Urban Development or other qualified agency reasonably acceptable to the ZBA. The Developer shall cooperate with any efforts to include and maintain the Affordable Units on the Town’s Chapter 40B Subsidized Housing Inventory.

4. The alignment of the Revised Project roadway to Seekonk Street shall be as shown on the 44-Unit Plan and as set forth in the Conditions. The Developer shall perform any vegetation clearing or grading within the Seekonk Street right-of-way necessary to provide optimal sight distances, and shall comply with any other traffic safety requirements or provide traffic mitigation as may be required by conditions in the ZBA’s comprehensive permit.

5. The land interior to the loop road as shown on the Restriction Plan attached as Exhibit B (the “Open Space Parcel”) [**The Restriction Plan shall be created after final approval of the comprehensive permit final plans and prior to the execution of this Restriction and shall define the Open Space Parcel as substantially all of the un-built areas within the land interior to the loop road as shown on the final approved plans**] and shall remain in its natural vegetated state except for (i) any temporary clearing during construction, and grading (permanent or otherwise) necessary to construct the Project, the Project roadway and any drainage structures approved by the Zoning Board during the final approval process; (ii) any

temporary construction-period staging and stockpiling of equipment or materials that the ZBA's Consulting Engineer confirms is unavoidable (meaning that there are no viable alternative locations for the same); and (iii) any permanent drainage structures, housing units and driveways shown on the 44-Unit Plan as being within the Open Space parcel, or as may be approved by the Zoning Board during final approval, as all of which may be further regulated by a conservation restriction. The Developer and its successor may maintain trees and vegetation within this area consistent with good forestry practices as approved by the Conservation Commission.

6. The Grantor intends, declares and covenants on behalf of itself, and its successors and assigns that these covenants and the agreements, rights, and restrictions contained herein are not merely personal covenants of the Grantor, and shall inure to the benefit of the Grantee and their successors for the term of these covenants. The Grantor hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts to be satisfied in order for the provisions of these covenants to constitute restrictions and covenants running with the land shall be deemed satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full. The Grantor agrees and the parties intend that this Declaration of Restrictive Covenants and all of its terms and restrictions shall be deemed to be an "other restriction held by a governmental body" as that term is used in G.L. c.184, § 26. See, Murphy v. Planning Bd, 70 Mass. App. Ct. 385 (2007). Further, to the extent it is relevant, the Grantor agrees that the covenants confer an "actual and substantial benefit" to the Town as the owner of the Benefitted Premises and will constitute such an actual and substantial benefit at the time of any enforcement of the covenants by the Grantees.

7. The Grantor makes the following additional representations:

(1) Lakeland Hills, LLC (i) is a limited liability company duly organized under the laws of the Commonwealth of Massachusetts, and is qualified to conduct business under the laws of the Commonwealth of Massachusetts, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this instrument.

(2) The execution and performance of the herein contained covenants and agreements by the Grantor, (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Grantor is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature, not otherwise caused to be permitted by the Grantor.

(3) O'Harte or the LLC has, at the time of the filing and registration of this Declaration, good and marketable title to the Burdened Premises free and clear of any lien or encumbrance.



the part of Grantor no matter how long the same may continue, shall not be deemed to be a waiver of the Grantee's rights hereunder. Furthermore, it is covenanted and agreed that no waiver, at any time, of any provision of this section by the Grantee shall be construed as a waiver of any other provisions hereof and that a waiver, at any time of any of the provisions hereof shall not be construed at any subsequent time as a waiver of such provisions.

Signed as a sealed instrument this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Edward O'Harte

\_\_\_\_\_  
Sandra A. O'Harte

LAKELAND HILLS, LLC

\_\_\_\_\_  
By: Edward O'Harte, Manager

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned notary public, personally appeared Edward O'Harte, individually and as Manager of Lakeland Hills, LLC, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My commission expires:

**SCHEDULE A**  
**BENEFITTED PREMISES**

Seekonk Street, Norfolk, MA

**SCHEDULE B**  
**BURDENED PREMISES**

The land shown on Land Court Plan 43114 filed in the Norfolk Registry District of the Land Court.

**EXHIBIT A to DECLARATION**

**44-UNIT PLAN**

## **EXHIBIT B to DECLARATION**

### **Restriction Plan**

**[The Restriction Plan shall be created after final approval of the comprehensive permit final plans and prior to the execution of this Restriction and shall define the Open Space Parcel as substantially all of the un-built areas within the land interior to the loop road as shown on the final approved plans]**

**NORFOLK ZONING BOARD OF APPEALS  
DECISION ON THE APPLICATION OF  
LAKELAND HILLS, LLC  
FOR A COMPREHENSIVE PERMIT UNDER G.L. c. 40B, §§ 20-23**

PETITION NUMBER: 2017-11  
APPLICANT: Lakeland Hills, LLC (the “Applicant”)  
LOCATION OF PROPERTY: 144 Seekonk Street, Norfolk, Massachusetts (the  
“Property” or “Site”)

**PROPOSED CONDITIONS**

**A. Approved Plan**

A.1. Except as may be provided for in the conditions of approval set forth herein, this Decision permits the construction, use, and occupancy of no more than forty-four (44) housing units in sixteen (16) single-family detached buildings and fourteen two-family (duplex) buildings on the Site, as shown on the 44-unit plan dated March 31, 2020 and presented to the ZBA on April 1, 2020 (the “Approved Plan”).

a. The approved schematic duplex housing plans are as follows:

- Red Unit, Lakeland Commons Townhouses, dated 9.8.16, prepared by Brian Donahue Architects
- Pink Unit, Lakeland Commons Townhouses, dated 9.8.16, prepared by Brian Donahue Architects
- Duplex Unit, Lakeland Commons Townhouses, dated 3.31.17, prepared by Brian Donahue Architects
- Schematic 2,696 Duplex Unit Plan, undated
- One-car garage, Duplex Unit Plan, undated
- Two- car garage, Duplex Unit Plan, undated

b. The approved schematic single-family home plans are as follows:

- The Beacon
- The Berkeley
- The Charles
- The Dartmouth
- The Fairfield
- The Norton
- The Liverpool
- The Woolton

A.2. No portion of the Site shall ever be used as vehicular access to any other land. The roadway shown on the 44-Unit Plan shall never serve any uses other than the 44

housing units shown on the plan and any uses accessory thereto.

- A.3. Before the commencement of any construction or any site clearing activities other than site clearing and activities in connection with any additional soil testing, surveying, and the like (the foregoing defined as “Construction Activities”) the Applicant shall submit to the ZBA final comprehensive permit site plans and those additional plan and submission requirements described in this Section B for review by the ZBA and its consulting engineer, Sean P. Reardon, P.E. (or if he is unavailable, another licensed professional engineer that does not present a conflict of interest with the Applicant based on prior dealings) (“Consulting Engineer”) to ensure that such plans and submissions required herein are consistent with the 44-unit plan dated March 31, 2020 and presented to the ZBA on April 1, 2020 (the “Approved Plan”) and this Decision. Upon such finding of consistency, said plans shall be approved and endorsed by the ZBA and shall be thereafter referred to as the “Final Plans”. The ZBA shall render a decision under this condition within thirty (30) days of the Applicant’s complete submittal of its proposed Final Plans meeting all permit conditions.
- A.4. The Project shall be constructed in conformance with the Final Plans. No additional bedrooms or any other structures or infrastructure except that which is shown on the Final Plans shall be created without further approval of the ZBA in the form of an amendment to this Decision pursuant to Section I below. Minor changes to the plans (e.g., changes that do not materially affect the location of, or increase the height or massing of the structures, or increase the number of units or bedrooms contained in the residential buildings) shall be submitted to the ZBA, who shall have the authority to approve such changes as insubstantial changes. If the ZBA determines that the proposed changes are substantial pursuant to Section I below, it shall so notify the Applicant and the Applicant shall proceed in accordance with 760 CMR 56.05(11).
- A.5. The Applicant made a late change to its plans, to provide a buffer to a neighbor at 14 Stop River Road, as depicted on the plan attached as Appendix A.5.a, as well as a minor modification to the road layout as shown on Appendix A.5.a. Specifically, the Applicant has proposed a no-disturb zone within the area designated as “Parcel C” on Appendix A.5.a, which shall remain in its natural vegetated state, provided that the Applicant may enter Parcel C to maintain the vegetation therein consistent with good forestry practices, which may include the cutting of dead and decaying trees. The Applicant may also temporarily alter the natural vegetation within Parcel C during construction if necessary to complete construction of improvements outside of Parcel C, provided that any altered vegetation shall be restored to its pre-disturbed state and where restoration is not feasible, to a state reasonably consistent with the goal of maintaining Parcel C as natural buffer zone to any development on the remaining portion of the Site. Parcel C shall be identified on the Final Plans and on any plans recorded in connection with the development of the Site as a “No-Build/No-Disturb” area.
- A.6. The Applicant shall install a 6-foot high fence along the property line between the Site and the lot known and numbered as 150 Seekonk Street, provided that the end of such fence at Seekonk Street shall be set back 4’ from the layout of Seekonk Street in order

to provide sufficient sight distances. Additionally, the Applicant shall install shrubs along the property line between the Site and 150 Seekonk Street near the roadway intersection to shade any headlight glare from vehicles exiting the Property, provided that such plantings do not interfere with sight distances.

**B. Submission and Final Permitting Requirements**

- B.1. Prior to or with the submission of the proposed Final Plans, the Applicant shall deliver to the ZBA a check for \$10,000 to be used for the ZBA to retain outside experts for review of the Final Plans as required under these conditions and construction monitoring as provided herein. Said funds shall be deposited by the Board in an account pursuant to G.L. c. 44, s. 53G and shall only be used for technical reviews and inspections associated with this Project. The escrow account shall be replenished to \$10,000 anytime the balance in the escrow account falls below \$2,500. Any unspent funds shall be returned to the Applicant with accrued interest at the completion of the Project.
- B.2. Appropriate signage shall be shown on the Final Plans that includes all interior directional and traffic signage as well as unit/building location signage.
- B.3. All street lighting shown on the Final Plans site shall incorporate glare cutoff shields that direct the light onto the Project roadways and the Project site as shown on the Applicant's site-lighting plan referenced above.
- B.4. Any walls visible from Seekonk Street shall be constructed from fieldstone, or fieldstone veneer. No retaining wall shall exceed six feet height from finish grade.
- B.5. The various colors proposed for the buildings shall be reasonably interspersed throughout the development, provided that no two adjacent buildings may be the same color to the extent practicable.
- B.6. All gas, electric, telephone, internet and cable utilities shall be installed underground, and the location of all utilities shall be shown on the Final Plans, unless such utilities are designed and installed by third-party service providers, in which case, such utilities shall be shown on as-built plans as required herein.
- B.7. Fire department approved fire hydrant locations shall be show on the Final Plans.
- B.8. The ZBA's approval of the Final Plans pursuant to Condition A.2 shall start with a referral of the plan and documentation submittal to its Consulting Engineer, consistent with the documentation described in Section B.9. The ZBA's approval of the Final Plan shall be contingent upon the Consulting Engineer making the following findings:
  - a. the Applicant's fully-engineered site development plans, including all components of the stormwater management system, the condominium wastewater system(s), the common utilities system, and the preliminary leaching field size and siting for the single-family units, are in compliance with all applicable federal, state and local laws (excluding

those that are waived herein) including, whether they are applicable or not, the state stormwater management standards, policies and guidelines set forth in 310 CMR 10.05(6)(k)(1)-(10) and the state Stormwater Management Handbook published by the state Department of Environmental Protection (DEP), Volumes I – III (the “SMR”), which in the event of any disagreement, compliance with the SMR may be demonstrated by issuance of an Order of Conditions or Superseding Order of Conditions for the Project;

- b. the construction of the Project’s roadways, buildings, structures, utilities and all other infrastructure is feasible and can be carried out in accordance with generally-accepted construction industry practices;
- c. there is not a substantially better site development plan for the layout and configuration of lots, building, roads, utilities and other infrastructure on the Site than what is shown on the Approved Plan in schematic form and in the Final Plans submitted for review in detailed form: (i) for safer vehicular and pedestrian access, including emergency vehicle access, to and within the Site, (ii) greater protection of public health, safety, and natural resources, and (iii) to preserve open spaces. The Applicant shall submit to the ZBA and the Consulting Engineer all documentation customarily required to demonstrate compliance with the same, including but not limited to the state Stormwater Management Handbook, and any supplemental information that may be reasonably requested by the Consulting Engineer, consistent with the requirements of Section B.9. The Consulting Engineer shall make its determination within thirty (30) days of the Applicant’s submission of the Final Plans and all any supplemental information that may be reasonably requested.

B.9. The Final Plans submission from the Applicant shall include plan sheets that contain sufficient information and detail for the Consulting Engineer to make an informed decision, and shall at a minimum contain the same plan sheets as the Applicant’s November 27, 2019 plan set. Applicable sheets of the Final Plans shall be signed and sealed by the Professional Land Surveyor, a Registered (Civil) Engineer, the Registered Building Architect and the Registered Landscape Architect of record.

B.10. The final submitted plans shall include a plan showing the layout of proposed erosion control devices during construction. An erosion control and construction management plan showing the construction methods, scheduling, phasing, winter stabilization measures, and location of necessary water pollution and erosion control methods shall be submitted as part of the Applicant’s Stormwater Pollution Prevention Plans (“SWPPP”), if applicable; otherwise, these details shall be submitted to the Board with its proposed Final Plans. The plans shall show the location of the storage areas and designation of temporary stump storage or spoils material area, in accordance with local and state regulations.

B.11. The Final Plans shall include construction sequencing and management plans

including, dust and noise control measures, tree removal, fill delivery schedules, stockpiling areas, truck routes, trash and debris removal, hours of construction, construction staging, traffic and parking during construction, and like matters. The construction sequencing plan may be incorporated in the SWPPP in connection with the Project's NPDES Permit (defined below), if required. The Applicants' construction sequencing plan may allow for and the Board does hereby permit, subject to satisfaction of the remaining pre-Construction Activity requirements, the Applicant to obtain all foundation permits (i.e. concrete construction only) and commence foundation construction prior to construction of the Project roadways and site infrastructure, provided that the Applicant's engineer certifies that appropriate measures will be taken to protect the Project site from undue erosion and sedimentation prior to any foundation excavation.

- B.12. The Final Plans shall include a stormwater management system operation and maintenance plan which shall be referenced in the Condo Trust (defined below) and HOA Trust (as defined below) documents.
- B.13. This Decision shall be noted on the endorsed Final Plans and both this Decision and the final site layout plan from the Final Plans shall be recorded at the Norfolk Registry of Deeds. Proof of recording shall be forwarded to the ZBA before issuance of a building permit.
- B.14. Before the Applicant begins any Construction Activities (defined above) it shall have satisfied the following additional pre-construction requirements:
  - a. At least fourteen (14) days before the start of Construction Activities, the Applicant shall provide notice to the ZBA and the direct abutters of the anticipated construction start date.
  - b. Obtained a National Pollutant Discharge Elimination System ("NPDES") stormwater permit for the Project, if applicable.
  - c. Received final approval from MassHousing and provided evidence of the execution and recording of a Regulatory Agreement to govern the affordability and profit limitation requirements set forth under Section D of this Decision or as otherwise required by the Subsidizing Agency.
  - d. Recorded this Comprehensive Permit with the Norfolk Registry of Deeds, at the Applicant's expense and provide proof of the same to the Board.
  - e. Obtained all approvals from the Norfolk Board of Health and/or Massachusetts Department of Environmental Protection ("MassDEP") that may be required under any statute, code or regulation affecting public health for the Condominium's common on-site septic systems, not otherwise preempted by Chapter 40B or expressly waived under this Decision.

- f. Obtained a Water Connection Permit and Street Opening Permit for the Project from the Norfolk Department of Public Works, which approvals will be subject only to technical review of compliance with non-waived regulations;
- g. Obtained all approvals for the Project from the Norfolk Conservation Commission or MassDEP required under any statute, code or regulation under its jurisdiction not otherwise preempted by this Decision or Chapter 40B;
- h. Obtained the ZBA's approval of the Applicant's Construction Management Plan, which shall address the following topics at a minimum:

- i. Hours of construction

- Construction and installation of the roadway and municipal services shall only occur Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m., and Saturday 8:00 AM to 5:00 PM, and there shall be no construction activity on State or Federal holidays, provided that during the months of June through August, Construction Activities may continue until 7:00 p.m.

- ii. Truck routes

- number of truck trips
    - hours of operation for truck trips
    - size of and specification of trucks, and plans to mark truck with identification placards

- iii. Trash and debris removal

- iv. Construction Phasing and Schedule (critical path)

- timing and phasing of construction
    - site clearing; construction of roadways and utilities; buildings, etc.

- v. Communications

- (Emergency Contacts)

- vi. Noise and Dust Control

- Control Plan
    - Mitigation Measures
    - Monitoring
    - Reporting
    - Tree removal (chipping, etc.)
    - Public street cleaning and repair

- vii. Blasting (if necessary)

Blasting Plan  
Identification of petitioner's blasting consultant (if required by Fire Chief)  
Selection of independent blasting consultant (if required by Fire Chief)  
Selection of blasting contractor  
Pre- and post-blast survey (scope and content)  
Insurance coverage  
Blasting limits  
Notification to all abutters, and abutters to abutters within 300 feet of the Project Site of blasting schedule a minimum of two weeks prior to blasting activities.  
Road closures (if necessary)  
School bus conflicts (limits on hours)

viii. Construction Staging  
Staging areas  
Site office trailers  
Storage trailers/containers  
Open storage areas  
Delivery truck holding areas  
Re-fueling areas

ix. Traffic and Parking (during construction)  
On-site locations  
Off-site locations  
Snow removal  
Police details  
Warning signs

(the "CMP");

B.15. Before the issuance of any building permit for the construction of any unit proposed for the Project (i.e. above-ground wood-frame construction) the Applicant shall satisfy the following requirements:

- a. Submit to the Building Inspector architectural plans for the unit to be constructed, consistent with the Approved Plans, prepared and sealed by an architect with a valid registration in the Commonwealth of Massachusetts ("Architectural Plans"). The Architectural Plans shall be submitted in such form as required by the State Building Code. The Architectural Plans may vary from the Approval Plans based on market demand and market conditions.
- b. Obtained and file with the Board any additional approvals required for the septic system required to serve such unit under state or federal law, including but not limited to a Disposal System Construction Permit under Title 5 (310 CMR 15) for such proposed septic system(s). For the sake of clarity, all on-site

sewage disposal systems shall be permitted and constructed in accordance with the requirements of Title 5. The Final Plans shall show the preliminary layout of the proposed individual septic systems that will serve each individual single-family home to be conveyed in the subdivision, which layout shall include a preliminary leaching field location and size, tank design, and associated piping. The Final Plans shall include permit ready design plans for the shared septic system intended to serve the duplex condominium units.

**C. General Conditions**

- C.1. All residential units approved under this Comprehensive Permit shall be for homeownership only, in perpetuity, and shall not be converted to rental units without approval as a substantial modification of this Comprehensive Permit under 760 CMR 56.05(11). This Condition shall not prohibit an individual homeowner from renting their home for a term of three months or longer. Short term rentals (i.e., Air BNB) shall be prohibited.
- C.2. The Applicant shall be responsible for managing the installation, operation, and maintenance of all aspects of the Project until all units have been conveyed, except for the common roadway and associated drainage infrastructure, which shall be managed by the Applicant and its successors-in-title until such time as the same may be accepted by the Town of Norfolk as a public way. The operation and maintenance of common facilities associated with the duplex housing units within the Project shall be the responsibility of the condominium (“Condo Trust”) as provided herein. The Applicant shall establish a Condo Trust pursuant to G.L. c. 183A, to maintain and repair all common areas, including but not limited to the roads, stormwater management system, wastewater disposal systems, landscaping, and other improvements within the Site. The Condo Trust shall adopt rules and regulations consistent with this Decision and a copy shall be provided to the Board and Town Counsel for review prior to the issuance of any occupancy permit as described below. At a minimum, the Condo Trust’s Master Deed and rules and regulations shall provide for the following:
- (i) Vehicle parking within the Site shall be limited to marked parking spaces only. “No-parking” signs shall be installed and maintained throughout the Site so as to prevent parking outside of designated parking spaces.
  - (ii) The Condo Trust shall be responsible for enforcing parking rules and shall fine units and unit owners for any violation of parking rules and regulations adopted by the condominium trust from time to time.
  - (iii) The Condo Trust shall be responsible for snow storage and disposal of snowfall that exceeds the capacity of the designated snow storage areas in the common Condominium areas. Snow shall not be stored or piled on top of septic systems and leaching fields.
- C.3. Any common facilities within the Project that are not otherwise managed by the Condo

Trust, including the bus shelter, shall be managed by a homeowners association (“HOA”) comprised of the remaining homes in the subdivision, which shall operate and maintain the remaining common facilities pursuant to the requirements applicable to the Condo Trust in Section C.2. The HOA shall be responsible for the maintenance of the stormwater management facilities that are outside the boundaries of the roadway right-of-way and outside the boundaries of the condominium parcel, but the Town of Norfolk may (but is not obligated to) perform whatever maintenance or repairs it deems necessary in its sole, subjective opinion. To this end, the Applicant shall convey an access easement to the Town of Norfolk in a form acceptable to Town Counsel.

- C.4. Street lights shall be provided on the proposed roadway as shown on the Site Plans, and within the layout of the right of way of the roadway. The street lights shall be perpetually maintained by the HOA with a separate electric meter.
- C.5. Pursuant to the List of Approved Waivers attached hereto as Exhibit A, the Applicant has requested and the Board has granted waivers from the Norfolk Zoning Bylaw and other local by-laws and regulations necessary to construct the Project as shown on the Approved Plans. No waivers are granted from requirements that are beyond the purview of G.L. c. 40B, §§20-23. The Applicant shall otherwise comply with any applicable bylaw or regulation in effect as of the date of the filing of this comprehensive permit application with the ZBA (September 5, 2017) that is not expressly waived herein.
- C.6. To the extent that additional waivers are subsequently determined to be required with respect to improvements that are otherwise shown on the Final Plans, such waivers shall be governed by 760 CMR 56.05(11), and can be granted administratively by the Board. Any subsequent substantial changes to the Final Plans that require additional or more expansive waivers of any local by-laws or regulations must be approved by the Board in accordance with 760 CMR 56.05(11).
- C.7. The Applicant shall copy the ZBA on all correspondence between the Applicant and any federal, state, or Town official, board, or commission concerning the conditions set forth in this decision, including but not limited to all testing results, official filings, environmental approvals, and other permits issued for the Project.
- C.8. This Comprehensive Permit may be subsequently assigned or transferred pursuant to 760 CMR 56.05(12)(b). The pledging of the Property as security under any loan financing terms as set forth in the financing entity’s Loan Documents or any foreclosure sale pursuant to the same shall not constitute an assignment or transfer under this paragraph.
- C.9. The provisions of this Decision shall be binding upon the successors and assigns of the Applicant, and the obligations shall run with the land. In the event that the Applicant sells, transfers, or assigns its interest in the Property, this Decision shall be binding upon the purchaser, transferee, or assignee and any successor purchasers, transferees or assignees. The limited dividend restrictions shall apply to the owner of the Project regardless of sale, transfer, or assignment of the Project.

- C.10. Unless otherwise indicated herein, the Board may designate an agent to review and approve matters on the Board's behalf subsequent to this Decision.
- C.11. The Applicant shall pay all fees typically imposed by the Town of Norfolk for single-family or multi-family construction projects, except as otherwise expressly waived by this Decision. The Applicant shall pay all required fees for all such building permits, including any fees customarily charged for inspections and permits, except as otherwise waived by this Decision. The Project shall conform to all requirements of the Norfolk Department of Public Works for utility connections, including the payment of all connection and service fees, unless waived hereunder.
- C.12. The Applicant shall be a limited dividend organization as required by Chapter 40B, and it and its successors and assigns shall comply with the limited dividend and other applicable requirements of Chapter 40B and the regulations adopted thereunder.
- C.13. If, at any time after the date of this Decision, the Applicant's subsidizing agency rescinds or revokes its project eligibility determination for the Project, this comprehensive permit shall be deemed null and void and have no further effect unless Applicant secures an alternative project eligibility determination letter.
- C.14. The Project's roadway shall be constructed pursuant to the road construction profiles shown in the Applicant's November 27, 2019 plan set and consistent with the road layout shown in the Approved Plan, subject to the conditions and waivers of this Decision regarding turn radii and other features and subject to any changes required by this Comprehensive Permit, including Section A.
- C.15. The Applicant may petition the Town of Norfolk to accept the Project's roadway as a public way, in accordance with the following procedures. The Applicant shall submit to the Board an application for Determination of Completeness, which shall include the plans and documents required for the "final release of performance guarantee" under Section 3.4.6.2 of the Planning Board's Subdivision Rules and Regulations, plus the following: (i) the fee set forth in Appendix (e) for acceptance of new roads (\$1,000 plus \$1/linear foot); (ii) Norfolk Good Standing form signed by the Town Treasurer, indicating that the Applicant has no outstanding financial obligations to the Town; (iii) draft deed for the conveyance of the road and utilities and easements approved by Town Counsel; (iv) evidence that the items on the Form K checklist have been completed in all material respects, to the extent applicable; (v) written evidence of construction completeness (road and utilities) from the Board's peer review engineer; (vi) draft newspaper notice for the Board's public hearing on the application, plus the newspaper publication fee; (vii) written evidence from Fire Department of compliance with state Fire Prevention Code; and (viii) Certificate of Compliance under state Wetlands Protection Act. Upon receipt of complete application, and after two weeks' notice by publication, the Board shall convene a public hearing on the application and render a determination of completeness or incompleteness (See, Section 3.4.6.3). The roadway shall not be presented to the Board of Selectmen (road commissioners) or Town Meeting unless and until the Board has made a Determination of Completeness. The required As-Built Acceptance Plan shall conform to Section 3.4.7 of the Subdivision

Rules and Regulations.

**D. Affordability Requirements**

- D.1. At least 25% of the units within the Project shall be made available for purchase by households whose aggregate income is no greater than 80% of the area median income, adjusted for household size, as published by the Department of Housing and Urban Development (“HUD”) for the Primary Metropolitan Statistical Area as determined by HUD (the “Affordable Units”) or as otherwise required by the Subsidizing Agency for the Project.
- D.2. Sale Prices. The initial sale prices for the Affordable Units shall be governed by the Chapter 40B Guidelines promulgated by DHCD and consistent with guidelines established by the Subsidizing Agency.
- D.3. Selection of Buyers for Affordable Units. The Applicant shall obtain the Subsidizing Agency’s approval of a Buyer Selection Plan for the sale of the Affordable Units prior to putting the Affordable Units on the market. Buyers shall be selected through a fair lottery process (the “Lottery”), acceptable to the Subsidizing Agency. The Board shall be provided with contact information for the Lottery Agent, be provided a copy of the buyer selection plan, and be notified of the scheduling of lotteries.
- D.4. To the maximum extent permitted by law and the Subsidizing Agency, first preference for the purchase of 70% of the Affordable Units shall be given to households that meet one or more of the following “Norfolk Connection” preference criteria:
  - a. at least one member of the household is a legal resident of the Town of Norfolk at the time of the Affordable Unit lottery application deadline. A person shall be deemed a “Resident” if that person has been registered as a Norfolk resident with the Norfolk Town Clerk pursuant to G.L. c. 51, §4 and would be considered a resident under the United States Census Bureau’s residency guidelines;
  - b. Municipal Employees: Employees of the municipality such as teachers, janitors, firefighters, police officers, librarians and town hall employees;
  - c. Employees of local businesses, employees or businesses located in the municipality; or
  - d. Households with children attending Norfolk schools.
- D.5. The selection of purchasers for the Affordable Units, including the administration of the Lottery, shall be administered by a consultant retained by the Applicant, subject to the Subsidizing Agency’s approval. The Lottery shall be implemented pursuant to a Lottery Plan developed by the lottery consultant and approved by the Subsidizing Agency. If acceptable to the Subsidizing Agency, disputes concerning income qualification and Norfolk Connection qualification shall be resolved in the first instance

by the Monitoring Agent and a party aggrieved by qualification-related decision of the Monitoring Agent may appeal the decision to MassHousing for a final determination. The provisions of this section are intended to complement and not to supersede any applicable requirements of the Subsidizing Agency, fair marketing regulations of the Department of Housing and Community Development, the Massachusetts Commission Against Discrimination, MassHousing, or any authority with jurisdiction and like purpose, to provide low and/or moderate income housing.

- D.6. Phasing-in of Affordable Units. The affordable units shall be constructed on a schedule that provides substantially for the construction of at least one affordable unit for every three market-rate units, provided that under no circumstances may more than four (4) certificates of occupancy be issued for market rate units until at least one certificate of occupancy is issued for an affordable unit. The low- or moderate-income units shall be evenly dispersed throughout the Project, as may be determined by MassHousing upon Final Approval. The low- or moderate-income units shall be indistinguishable from the exterior from the market-rate units in the Project. If an individual with a physical disability is a member of a household that has been selected to purchase an affordable unit through the lottery, the Applicant shall ensure that that unit is fully accessible under the Americans with Disabilities Act standards, at the Applicant's cost.
- D.7. Perpetual Affordability Restriction. Before the issuance of any occupancy permit, a Regulatory Agreement acceptable to the Subsidizing Agency shall be executed and recorded. The Regulatory Agreement shall provide, among other things, that (a) Affordable Units in the Project will be sold and resold subject to a Deed Rider acceptable to the Subsidizing Agency, and (b) the Project Owner's profit shall be limited to 20% of the total development cost of the Project as defined by the applicable regulations of the Subsidizing Agency. The Deed Rider shall be attached to and recorded with the Deed for each and every Affordable Unit in the Project at the time of each sale and resale and the Deed Rider shall restrict each such affordable unit pursuant to this Decision in perpetuity.
- D.8. Nothing in this Section D shall supersede or alter the requirements of the Subsidizing Agency for this Project with respect to the matters described herein.

**E. Project Construction**

- E.1. The Applicant and the site general contractor shall attend a preconstruction conference with the Building Inspector, Town Planner, Consultant Engineer and other Town Department heads as the Building Inspector may determine. Such meeting will allow the development team to meet and discuss with Town officials regarding construction milestones, timing of inspections and coordination between the parties involved.
- E.2. The Applicant shall permit representatives of the ZBA to observe and inspect the Site and construction progress until such time as the Project has been completed. The Board or its appointed agents may conduct periodic inspections during the construction of the Project, to ensure compliance with the terms of this Decision and for consistency with generally-accepted construction and engineering practices for individual lot

development, the installation of roadways, stormwater management facilities, utilities, and other common development infrastructure. Inspections during the construction phase shall be conducted at the expense of the Applicant, from funds deposited in the Escrow Account. The Applicant shall ensure safe and convenient vehicular access to the Site during the entire duration of the Project in accordance with the CMP. All units shall be clearly marked with signage at the frontage at the time of permit issuance.

- E.3. During construction, the Applicant shall conform to all unwaived local regulations and all state and federal laws regarding noise, vibration, dust, and blocking of Town roads. The Applicant shall at all times use all reasonable means to communicate with and minimize inconvenience to residents in the general area. Adequate provisions shall be made by the Applicant to control and minimize dust on the site during construction in accordance with the construction mitigation plan.
- E.4. Construction activities shall be conducted in compliance with the town by-laws which state that no person or persons shall cause, allow or permit the operation of equipment or machinery associated with site work, construction, or demolition, or the operation of motor vehicles including dump trucks, trailer trucks, tractor units with flatbed trailers or other types of truck equipment, for the specific purpose of loading or unloading equipment, machinery or goods, materials, substances or fluids, including trash, rubbish, or recyclable collection vehicles used to collect household waste between the hours of 7 p.m. and 7 a.m., Monday through Saturday, and all hours on Sunday and all hours on the following Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day and Christmas, without the express approval of the Town Administrator and the issuance of a work permit by the Chief of Police. Such regulation shall not apply to utility companies, private contractors, or municipal workers who are making emergency repairs or deliveries that maintain or restore utility and necessary services under the direction of the municipality or utility company, but such work shall require prior notice to the Police Department. Such regulations shall also not apply to or include domestic equipment used by the homeowner or resident of the property such as lawnmowers, leaf blowers, power or chain saws, snow blowers, and other similar equipment and machinery including snowplowing and snow clearing by private contractors, or those activities defined by 310 CMR 7.10. Violations of this Section shall be subject to a fine of three hundred dollars (\$300) for each violation in accordance with applicable law.
- E.5. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. During construction, the Applicant shall provide means to secure the front entrance to the Site at appropriate times to protect against unauthorized entry or vandalism, and all construction materials shall be stored or stockpiled in a safe manner. Any floodlights used during the construction period shall be located and directed so as to prevent spillover or illumination onto adjacent properties. All construction activities are to be conducted in a workmanlike manner.
- E.6. Burning or burial of construction or demolition debris on the site is strictly prohibited. All such materials are to be removed from the site in accordance with applicable law. During construction, the site shall be secured against unauthorized entry or vandalism

by fencing, or other appropriate means, and all construction materials shall be stored or stockpiled in a safe manner. Any floodlights used during the construction period shall be located and directed so as to prevent spillover or illumination onto adjacent properties. All construction activities are to be conducted in a workmanlike manner.

- E.7. No building areas shall be left in an open or unstabilized condition longer than 45 days. Temporary fencing shall be installed around any open foundations and trenches. Temporary stabilization shall be accomplished by hay bales, straw coverings or matting. Final stabilization shall be accomplished by loaming and seeding exposed areas.
- E.8. Gravel for roadways and soil material to be used as backfill for roadway construction shall be tested at the expense of the Applicant by a firm reasonably acceptable to the ZBA's Consulting Engineer. Testing of said backfill shall be performed in conformance with standards and frequencies reasonably established by the ZBA's Consulting Engineer. Protocols for installing subsurface utilities in conventional subdivision shall be complied with, except as specifically waived herein.
- E.9. The Applicant and its successors are responsible for the sweeping, removal of snow and sanding of the Project's roads and driveways permitting access to residents, emergency vehicles, and others during construction and until the roads have been formally accepted as public ways. The final coat of pavement on the roadways shall be installed after the binder course has endured a full winter season. The Applicant shall promptly clean any debris or dirt deposited on Norfolk streets as a result of the Project and shall periodically sweep adjacent streets as necessary to remove construction-related dirt and debris.
- E.10. Construction vehicles and vehicles of construction workers shall be parked on the Site, and off Seekonk Street at all times, unless otherwise authorized by a police detail.
- E.11. Blasting - Any rock blasting shall be performed by a licensed blasting professional, who shall first obtain all required permits from the Norfolk Fire Department. All blasting and removal of debris shall be performed in accordance with state regulations and local Fire Department requirements, and the Applicant shall provide evidence thereof to the Fire Chief.
  - a. Selection of the Blasting Contractor. A blasting contractor, acceptable to both the Applicant and the Norfolk Fire Department, shall be selected after review of the qualifications of such contractor.
  - b. Independent Blasting Consultant. If required by the Fire Chief, an independent geotechnical-blasting consultant shall be selected and paid for by the Applicant, subject to the approval of the Norfolk Fire Department. The consultant shall review the qualifications of the blasting contractor, and review the final blasting plan prepared by the blasting contractor, check the calibration of the seismograph monitors, approve the location and installation of the seismograph monitors, and, if required by the Norfolk Fire Department, determine the blast

limits throughout the blast period, and shall consult with the Norfolk Fire Department as needed throughout the blasting period.

- c. Pre-blast Survey. Before any blasting on the Site, the Applicant shall conduct a pre-blasting survey that shall include video-recording of the foundations of all direct abutters to the Project, and shall provide copies of that survey to the ZBA, Fire Chief and each abutter upon request.
  - d. Insurance Coverage. The blasting contractor shall carry comprehensive public liability insurance in the amount of not less than \$1,000,000 for property damage in respect of any one occurrence and \$2,000,000 aggregate. A certificate shall be submitted to the Norfolk Fire Department by the contractor documenting that the required coverage will be in force for the duration of the blasting at the site. If there is a general contractor or developer associated with the blasting, each shall carry a minimum of \$1 million of comprehensive liability insurance.
  - e. Blasting Limits. The Commonwealth of Massachusetts blasting limits shall be observed. However, if, based upon the recommendation of the independent blasting consultant, the Norfolk Fire Department feels that a lower limit is necessary to protect the site and the abutting residential neighbors, that lower limit shall be in effect.
  - f. Notification. Not less than two weeks before the commencement of any period of blasting, the Applicant shall notify the immediate abutters within 200 feet of the blast area, stating when the blasting period shall begin. Notification under this provision and under any other provision in the Comprehensive Permit shall be by the following three methods: (1) phone or in person; (2) by email; and (3) by letter. Such notification shall include an explanation of the warning procedures for blasting, including soundings. The Applicant shall send another letter notifying the same abutters that the blasting period has been completed. In addition, the Applicant shall notify the Fire Department 30 minutes before each blast, and a Fire Department detail is required for every blast, who shall be certified by the Fire Academy regarding the requirements of the state blasting regulation.
  - g. No perchlorate shall be used during blasting at any time.
- E.12. Protection of Neighborhood Water Supply Wells – Prior to any blasting on the Site, the Applicant shall implement a Well Monitoring Plan and Protocol (“WMPP”). The WMPP shall measure the impact of any blasting on the quality or quantity of water in documented potable water wells of located within 800 feet of any blasting charges location. The WMPP must include notification of any property owner with a potable water well registered with the Norfolk Board of Health within 800 feet of anticipated blasting charge location(s) at least 30 days prior to any blasting activity. Notice must include a description of the anticipated blasting and clear guidance to

well owners on process for requesting pre-blasting baseline well sampling. The Applicant shall be responsible for carrying out the WMPP for any such well owner that wishes to participate. If results of the WMPP indicate that the Water Well Performance Standard ("WWPS") set forth below has been exceeded for any participating well owner, the Applicant shall, at its own expense and within 14 days of confirmation of an exceedance, be obligated to commence remediation, which shall either be the installation a new private potable drinking water well or providing a town water connection at the owner's option, which remediation shall be completed expeditiously..

- E.13. Water Quality – For those well owners participating in the WMPP, a baseline water quality sample shall be collected from each well and shall be submitted for laboratory analysis by a qualified independent laboratory for the following constituents: Alkalinity, Chloride, Color, Nitrate Nitrogen, Nitrite Nitrogen, Odor, pH, Sediment, Sulfate, Turbidity, Total Dissolved Solids, Perchlorate, Hardness, Arsenic, Calcium, Copper, Iron, Magnesium, Manganese, Radon, Sodium, Lead, Total Coliforms. This same water quality analysis shall be completed between 10 and 20 days after conclusion of all blasting activity on the Site. If requested by the well owner, additional water quality analyses shall be completed twelve (12) months after completion of all blasting activities. The costs for the water quality testing shall be borne by the Applicant. The data collected from the water quality testing shall be reported to the Board of Health within 15 days of completion of the chemical analysis. The WWPS for each constituent shall be the state drinking water standards, or in the absence of such standards, the federal Clean Water Act standards. No perchlorate shall be used by the Applicant in blasting activities.
- E.14. Water Quantity – For those residences participating in the WMPP, a baseline 6-hour pump test production rate (or reasonable equivalent) shall be determined, either by installers records, Board of Health records, or by pre-blast testing. This same water quantity analysis shall be completed between 10 and 20 days following the conclusion of all blasting activity on the Site. If requested by the well owner, additional water quality analyses shall be completed twelve (12) months after completion of all blasting activities. The costs for the water quantity testing shall be borne by the Applicant. The data collected from the water quantity testing shall be reported to the Board of Health within 15 days.
- E.15. All proposed roadway and utility constructions, grading and appurtenant work shall be constructed pursuant to the Final Plans, consistent with the roadway construction designs shown in the Approved Plans. All proposed roadway and utility constructions, grading and appurtenant work shall continue to be described in complete detail to readily enable peer review and construction. A note shall be placed on each pertinent sheet of the Plans stating that the Project is the subject of a comprehensive permit under G.L. c. 40B, § 20-23, that the roads and ways within the Project in some cases may, and in other cases may not, conform to the standards and requirements of the Planning Board's Subdivision Rules and Regulations.
- E.16. The Applicant shall install vertical bituminous, concrete or granite curb at the edge of

the paved surface between the road and the sidewalk to provide protection for pedestrians. Granite curb shall be provided at least at all Seekonk Street intersection radii. Granite curb inlets shall be installed at all catch basins located along the roadway curbing.

**F. Open Space**

- F.1. The land interior to the loop road designated on the Final Plan the “Open Space Parcel” shall remain in its natural vegetated state, except for (i) any temporary clearing, and grading necessary to construct the Project described in this Decision and as shown on the Approved Plan; (ii) any temporary construction-period staging and stockpiling of equipment or materials that the ZBA’s Consulting Engineer confirms is unavoidable (meaning that there are no viable alternative locations for the same).
- F.2. Applicant shall execute and convey a perpetual conservation restriction encumbering the Open Space Parcel. The restriction shall be conveyed to the Norfolk Conservation Commission and shall be in form acceptable to the Town’s counsel and eligible for perpetual enforcement. The Applicant shall convey the restriction at least prior to the issuance of the final certificate of compliance under the Wetlands Protection Act by the Conservation Commission for the roadway and related infrastructure, and at least prior to the issuance of the 40<sup>th</sup> occupancy permit for residential units within the Revised Project. If the Conservation Commission declines to accept the restriction, then the restriction shall be conveyed to a land trust or non-profit organization acceptable to the Select Board. Alternatively, the Applicant may convey the fee in said restricted land for nominal consideration to the Conservation Commission or to acceptable land trust or non-profit organization provided that intent of this condition to preserve the land in its natural state in perpetuity is effectuated. The Applicant and its successor may maintain trees and vegetation within this area consistent with good forestry practices as approved by the Conservation Commission.

**G. Public Safety and Fire Protection**

- G.1. The Project roadway’s entrance from Seekonk Street shall be as shown on the sight distance plans prepared by Phillip Cherry, P.E., WSP, dated February 11, 2020 (the “Sight Distance Plans”), which shifted the location of the roadway north by 32.5 feet in order to maximize sight distances.
- G.2. To maximize available sight distances at the intersection of the Project’s roadway and Seekonk Street, the Applicant shall, prior to the issuance of the first building permit, clear vegetation within the Seekonk Street Right-of-Way in areas shown to be within the sight lines in front of the Project Site and in front of the properties located at 141 Seekonk Street, and 150 Seekonk Street. Specifically, all vegetation within the Right-of-Way shall be removed that is located within the sight lines for: (a) stopping sight distance, as shown on Sheet 1 of Sight Distance Plans; (b) intersection sight distance as measured from 10’ and 14.5’ from the edge of the paved surface of Seekonk Street as shown on Sheets 2 and 4 of said Plans; and (c) left-turn sight distance as shown on Sheet 5 of said Plans.

- G.3. Prior to removing vegetation within the Seekonk Street right of way under this condition, the Applicant shall notify the DPW and Police Department of its proposed scope of work and schedule for work, and shall perform all such work under the supervision of the DPW Director and in accordance with any direction or conditions of the DPW Director. If the Norfolk Police Chief determines that a police detail is required, the detail shall be provided at the Applicant's expense. Further, prior to performing any such work, the Applicant shall stake the boundaries of the Right-of-Way on the ground adjacent to 141 and 150 Seekonk Street, and shall subsequently notify the owners that the property boundaries have been staked and that trees, branches and other vegetation on the "street-side" of the boundaries may be removed pursuant to this conditions. The property boundaries shall be staked on the ground to conform to the survey plan prepared by Dunn & McKenzie, Inc. for the DPW dated January 3, 2020, which plan was submitted for the record. Prior to any tree removal within the right-of-way of Seekonk Street, the Applicant shall identify and tag all trees within the right-of-way that it determines must be removed to ensure adequate sight distances, or for any other reason.
- G.4. To maximize the "left turn" sight distance for vehicles travelling south on Seekonk Street, also known as "Case F" in the publication *A Policy on the Geometric Design of Highways and Street* published by the American Association of State Highway and Transportation Officials (AASHTO), the Applicant shall clear vegetation within the left turn sight line on the property known and numbered as 141 Seekonk Street, as shown on the plan prepared by Philip Cherry, P.E. dated May, 2020 and as described in Mr. Cherry's May 6, 2020 technical memorandum to the ZBA. After clearing, all stumps and other debris shall be removed off site, and the Applicant shall add a layer of loom and hydroseed. The Applicant shall prepare a sight line easement instrument and exhibit for this area within the Case F sight line on 141 Seekonk Street to be conveyed to the Town of Norfolk in a form acceptable to Town Counsel, and the Applicant shall obtain a signed and notarized easement from said owner of 141 Seekonk Street prior to the issuance of the first occupancy permit. Additionally, to compensate the 141 Seekonk property owner for the disturbance on its property, the Applicant shall install a 6-foot tall fence along the property boundary between the 141 Seekonk Street and 143 Seekonk Street (outside of the sight line area).
- G.5. As recommended by Mr. Cherry in his February 11, 2020 letter to the ZBA (page 3), the Applicant shall install the following signs and lamps: (a) Speed Feedback Sign at a location approximately 450 south of the Project entrance facing northbound traffic; and (b) a "W1-10" sign to notify northbound Seekonk Street drivers of the location of Project intersection; and (c) a street light at the intersection of the Project roadway and Seekonk Street to ensure that Seekonk Street drivers can see vehicles turning in or out of the Project roadway during periods of low visibility or at night. The cost of the sign and lighting equipment and materials shall be borne by the Applicant. The specific types, forms, and models of said signs and street light and any related materials shall be subject to the approval of the DPW Director and the Police Chief. The Applicant shall coordinate the installation of the sign and shall perform all such work under the supervision of the DPW Director and in accordance with any direction or conditions of the DPW Director.

- G.6. Prior to the issuance of the first occupancy permit, the Applicant shall deposit the sum of \$25,000 with the Town of Norfolk in its G.L. c. 44, §53A “gift fund” to be held in escrow to fund any future improvements that might further improve traffic safety on Seekonk Street in the area of the Property, including without limitation, additional brush clearing, pavement markings, speed humps, signage and the like, in the ZBA’s discretion in consultation with the Department of Public Works (“DPW”) and Chief of Police. If the funds are not spent within five years of the date of the issuance of the final occupancy permit for the Project, the funds shall be deposited into the Town’s sidewalk fund, as mitigation for additional traffic that will be generated by the Project.
- G.7. The numbering system and the identification of the dwelling units shall be subject to the approval of the Fire Chief and shall be shown on the Final Plans. Street names shall be subject to the approval of the Select Board.
- G.8. Pursuant to Fire Chief’s Memorandum to the ZBA dated May 21, 2019, prior to the commencement of Construction Activities the Applicant shall submit to the Consulting Engineer a full-engineered site plan signed and stamped by a registered professional engineer that provides a “swept path” analysis, demonstrating that all Norfolk Fire Department apparatus can successfully negotiate the proposed roads within the Project. See, 527 CMR §18.1.1.3. Further, given the varying changes in topography from Seekonk Street to the proposed development, the plan shall also stipulate that no angle of departure issues are present which could damage fire apparatus.
- G.9. Pursuant to Fire Chief’s Memorandum to the ZBA dated May 21, 2019, prior to the commencement of any Construction Activities, the Applicant shall provide documentation that sufficient available water pressure and flow for fire protection purposes within the Project Site (“fire flow”) is available or can be achieved through pumps that the Applicant will install at its expense. All new hydrants shall be supplied by a water main of a minimum size of either eight inches in diameter for dead-end mains or a minimum of six inches for circulating mains, and be capable of delivering a minimum 1,000 gpm fire flow at a residual pressure of 20 psi over and above average maximum demands at the farthest point of the installation. Refer to Mass Comprehensive Fire Safety Code Chapter 18.5. Proof of compliance with this requirement shall be provided to the Fire Chief and the Board prior to commencement of Construction Activities.
- G.10. Pursuant to the Fire Chief’s Memorandum dated April 21, 2020, prior to the commencement of any Construction Activities, the Applicant shall demonstrate compliance with all of the state Fire Code sections itemized on the Norfolk Fire Department’s Access and Water Supply Site Plan Checklist, which was submitted for the record.
- G.11. There shall be no on-street parking on any roadway or common driveway in the Project. Pursuant to General Laws Chapter 90, Section 18, this Comprehensive Permit authorizes the Town of Norfolk, through its Police Chief, to enforce this condition in addition to enforcement by the Condo Trust and Home Owner’s Association as applicable.

- G.12. There shall be a minimum fire access width of 10 feet between all structures and between structures and the property boundary of the Site, as shown on the Approved Plans. Said areas shall be free of obstructions as shall be determined and enforced by the Fire Chief under the state Fire Prevention Code, consistent with the Approved Plans. This condition shall be referenced in the deed to each individual housing unit, and in the Condo Trust's Master Deed.
- G.13. The minimum driveway length for individual housing units shall be 19 feet as measured from the outermost point on the structure abutting the driveway to the closest street or sidewalk pavement. The Applicant shall obtain the Fire Chief's approval of hydrant locations throughout the Project.
- G.14. No building permit for above-ground building construction in the Project shall be issued until the base coat of pavement for the portion of the roadway serving that building and appropriate turn-around for fire apparatus has been installed. Notwithstanding the foregoing, the Applicant may apply for and obtain foundation permits pursuant to Section B.11 prior to the installation of the base coat of pavement, provided that the Applicant obtains written confirmation from the Fire Chief that the roadway in its current condition that provides access to the lots where foundation work is proposed is acceptable to the Fire Department for emergency vehicle access.
- G.15. In accordance with NFPA §8.7.2.3, all underground water lines and hydrants shall be installed and operational prior to the issuance of any building permits for construction of combustible structures.

#### **H. Surety & Covenants**

- H.1. As security for the completion of the infrastructure related to the Project as shown on the Final Plans, including, but not limited to, the roadway, sidewalks, parking areas and common areas, recreational areas, drainage facilities, utilities, landscaping, and any other specific infrastructure shown on the plans (the "Infrastructure"), the release of occupancy permits for all housing units and the sale of all housing units in the Project shall be subject to the following restrictions.
- a. Prior to issuance of a certificate of occupancy for any unit in the Project, the Applicant shall:
- (i) Install: (1) all stormwater management infrastructure serving such unit; (2) the base and binder course for the Project roadway as shown on the Final Plans associated with such unit; and (3) all infrastructure and improvements described herein and as shown on the Final Plan so as to adequately serve said unit including any necessary temporary turn arounds for emergency access.
  - (ii) Submit the proposed Condo Trust (defined below) documents to the Board for review by the Board and Town Counsel to ensure consistency with this Decision.

- b. No more than half of the certificates of occupancy for the Project shall issue until:
  - (i) All the infrastructure and improvements shown on the Approved Plan (except the final coat of pavement on the roadway) shall be fully installed. The final coat of pavement shall not be installed until after the binder coat has endured a full winter season.
  - (ii) If, in Applicant's reasonable judgment, weather circumstances preclude the installation of plantings to complete landscaping before the issuance of the final occupancy permit, the Applicant shall post a bond or a deposit with the ZBA an amount equivalent to 1.5 times the reasonably expected cost of the plantings to ensure completion by the Applicant as soon as weather allows, and in no event later than the first growing season following the issuance of the final certificate of occupancy.
- c. Prior to the issuance of the final certificate of occupancy, the Applicant shall submit to the Board an "As-Built Plan" in paper and CAD format, showing all pavement, building locations, stormwater management structures and other infrastructure as they exist on the Site, above and below grade, including appropriate grades and elevations. The plans shall be signed by a registered land surveyor and civil engineer, certifying that the Project as built conforms and complies with the conditions of this Comprehensive Permit. The purpose of this provision is to facilitate the Consulting Engineer's review of the Project for compliance with this Decision before the final occupancy permit is issued. Elevations must be to a known datum (NAVD 1988). The Applicant shall also submit to the Building Inspector as-built plans for all buildings in the Project. An accurate as-built utilities plan and profile, showing actual in-ground installation of all utilities, shall be submitted to the Department of Public Works after completion of construction.

H.2. The Applicant may propose a Tri-Party Agreement with its construction lender as an alternative means of providing security for the completion of the Project's infrastructure. The ZBA's engineering consultant shall review the construction costs and recommend adjustments based on best practices and prevailing wage recruitments. Any such agreement shall be subject to legal review by the ZBA's counsel, and subject to the ZBA's approval.

H.3. Prior to the commencement of Construction Activities (defined above), the Applicant shall post cash, a bond or enter into a Tri-Party Agreement with its construction lender in the amount of \$25,000 to provide surety to the Town in the event that the Project Site is disturbed, cleared, grubbed, etc. and abandoned in a state with insufficient erosion control, site stabilization or interim stormwater management. The surety shall be released by the Board upon completion of the roadway to base gravel course and all other Infrastructure (or posting of financial surety for the completion of the roadway

and infrastructure).

**I. Water, Wastewater, Utilities**

- I.1. The water, septic, and drainage utilities servicing the buildings in the Project shall be installed and tested in accordance with applicable Town of Norfolk requirements and protocols, except as waived.
- I.2. Utilities shall be installed underground by the Applicant (or applicable utility service provider) using methods standard to those installations. Utilities shall be defined as electric service lines, gas, telephone lines, water service lines, CATV lines, municipal conduit and the like.
- I.3. The Applicant shall maintain and repair the drainage structures and stormwater management system within the Project Site until such time as the Applicant transfers title to the roadway and infrastructure to the Town.
- I.4. Snow shall not be stored or piled on top of septic systems and leaching areas

**J. Amendments**

- J.1. Any proposed amendment to this Decision or substantial change to the Approved Plans shall be governed by 760 CMR 56.05(11).
- J.2. No structure constructed under this Comprehensive Permit shall be altered, reconstructed, extended, or changed unless authorized by the ZBA by a special permit pursuant to applicable sections of the Zoning Bylaws, as may be amended. Upon such an application for a special permit, the ZBA shall determine, in the first instance, whether such alteration, reconstruction, extension or change is “substantial” or “insubstantial.” An alteration to a residential structure shall generally be presumed to be an insubstantial change to this Comprehensive Permit. For all special permit applications for such insubstantial changes, the ZBA shall employ the standards of review set forth under Section F.4 of the Zoning Bylaw pertaining to changes to pre-existing, nonconforming structures, as may be amended. Requests for substantial changes shall be treated as requests to amend this Comprehensive Permit. Notwithstanding the foregoing, this Paragraph shall not apply to the original construction of structures by the Applicant, but shall only apply to subsequent alteration, reconstruction, extension, and change to such structures.
- J.3. The terms alteration, reconstruction, extension, and change shall have the same meaning under the Massachusetts Zoning Act, G.L. c. 40A, §6 as applied under the Norfolk Zoning Bylaws.

**K. Expiration Date**

- K.1. If Construction Activities authorized by this Comprehensive Permit have not begun within three (3) years of the date on which the permit becomes final, the permit shall lapse. The permit shall become final on the date that the written decision is filed in the

office of the town clerk if no appeal is filed. Otherwise, it shall become final on the date the last appeal is decided or otherwise disposed of. Extensions may be issued by the Board upon written request by the Applicant pursuant to 760 CMR 56.05(12)(c).

*Applicant: Lakeland Hills, LLC*  
*Project: Lakeland Hills*



# The Commonwealth of Massachusetts

## Department of Early Education and Care

Remote Learning Enrichment Policy	
<b>Minimum Operating Requirements</b>	<b>Remote Learning Enrichment Programs</b>
<b>Effective Date: August 31, 2020</b>	

On August 28, 2020, Governor Baker issued COVID-19 Executive Order No. 49, which provides three ways for communities to support expanded access to child care and supervision in response to the increased need from families with children enrolled in hybrid or remote learning.

The Executive Order makes possible the expansion of programs licensed by the Department of Early Education and Care (EEC) to serve school-aged children during remote learning hours. That option has many benefits, including that programs are already expert in serving children in this age group, are already subject to the oversight of a state authority, and have been operating under health and safety guidelines to great effect since summer; *This application is unnecessary* for programs licensed by EEC. Communities and municipalities may find and connect with EEC Licensed Programs through the [Consumer Education web site](#).

Should existing EEC Licensed Programs not fully meet the needs of a local community, EEC has established a new category of license exemption, Remote Learning Enrichment Programs. Through this policy document, EEC sets forth minimum criteria for Remote Learning Enrichment Programs to operate, as well as the approval and monitoring role of Municipal Approving Authorities.

### **The Role of a Municipal Approving Authority**

Acquiring an exemption requires approval by a Municipal Approving Authority, which must be designated by the municipality’s CEO. A municipality may have several offices involved in verifying the necessary information (i.e., the building inspector may conduct health and safety checks and the police department may conduct background checks), depending on local needs and capacity. However, only a Municipal Approving Authority can offer final approval of a program’s application. This approval involves creating and signing an approval letter and completing an Attestation Form, as described below.

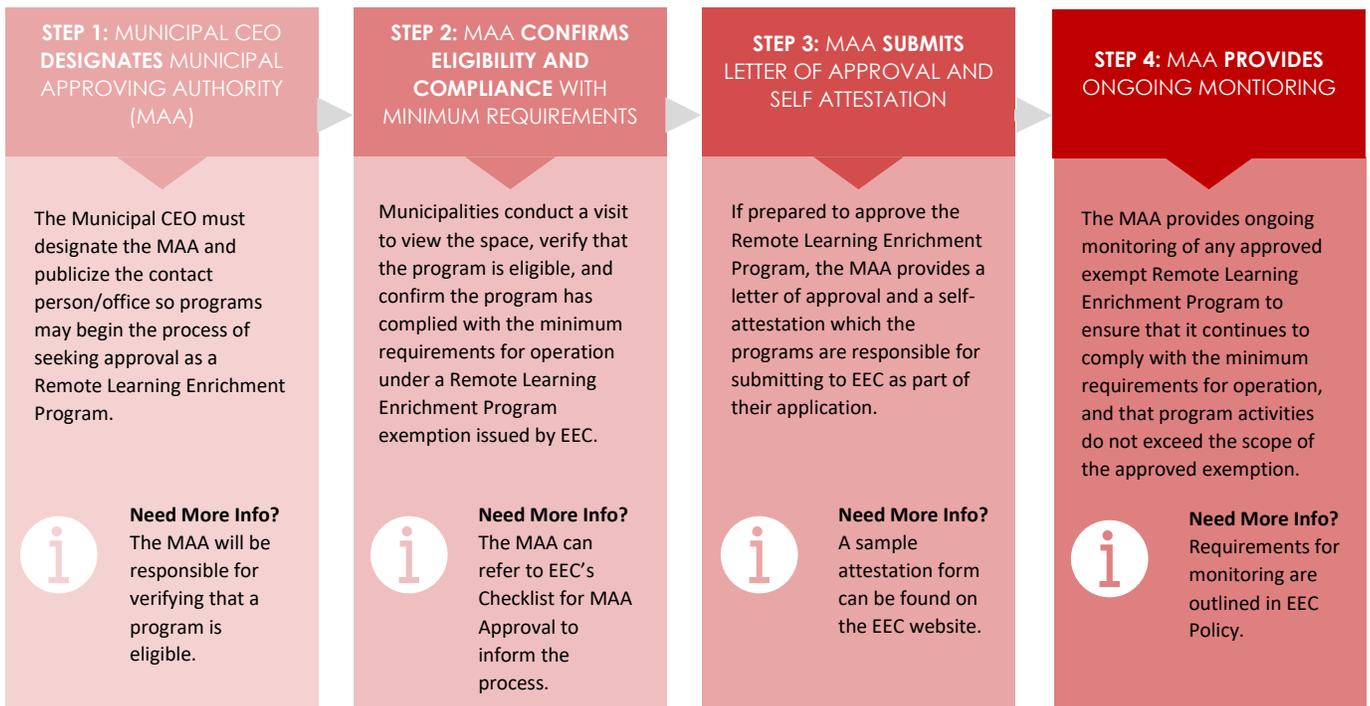
The approval process shall include, at a minimum:

- Verification by a Municipal Approving Authority that the program is eligible (as defined below) and has complied with the minimum requirements for operation of a Remote Learning Enrichment Program;
- Confirmation of a visit to determine the suitability of the program space for remote learning (may be virtual or in-person<sup>1</sup>) by a Municipal Approving Authority;
- Signed Approval Letter from a Municipal Approving Authority consisting of:

<sup>1</sup> During the COVID-19 Emergency, in-person visits may only happen if **all** of the following conditions are met:

- All individuals agree to the in-person visit;
- All individuals wear face coverings and maintain a physical distance of at least 6 feet at all times;
- All individuals are in good health (not high-risk population), with no symptoms of illness; and
- All individuals can attest that they have not been in close contact with someone confirmed to have COVID-19.

- The name and contact information for the individual applying for the Remote Learning Enrichment Program exemption
- The name and address of the Remote Learning Enrichment Program
- A brief statement about the purpose of the Remote Learning Enrichment Program and the activities to be conducted during the program
- The proposed group size and ratio for the Remote Learning Enrichment Program
- A brief statement about the health and safety guidelines that the Remote Learning Enrichment Program will follow (EEC or DESE)
- The frequency of monitoring visits planned by the Municipal Approving Authority
- A statement of approval for the program’s application for the Remote Learning Enrichment Program exemption
- Signed [Attestation Form](#) from the same Municipal Approving Authority, using the template provided, attesting that:
  - The minimum requirements for operation have been verified (see below)
  - Municipal Approving Authority will determine whether the program continues to comply with the minimum requirements for operation, and that program activities do not exceed the scope of the Remote Learning Enrichment Program exemption criteria
  - Municipal Approving Authority will notify EEC of any non-compliance and/or Municipal Approving Authority enforcement resulting from any non-compliance with those minimum requirements for operation or activities exceeding that scope.



## Minimum Requirements for Operation of a Remote Learning Enrichment Program

The following criteria must be confirmed by a Municipal Approving Authority to have been met before the program will be considered for an exemption by EEC.

<b>Eligibility<sup>2</sup></b>	<ul style="list-style-type: none"> <li>• The program attests that it is not currently licensed by EEC.</li> <li>• The program attests that it will provide regular or drop-in care for children who are enrolled in a public or private school district.<sup>3</sup></li> <li>• The program attests that it understands that its license exemption only applies during the hours of a traditional in-person school day.<sup>4</sup></li> <li>• The program attests that all enrolled children are school age, which is defined as: enrolled in kindergarten or at least of sufficient age to enter first grade the following year, or an older child who is enrolled in school and not more than 14 years of age or not more than 16 years<sup>5</sup> of age if the child has special needs.</li> </ul>
<b>Ratios, Group Sizes, and Age Groups</b>	<ul style="list-style-type: none"> <li>• <b>Programs operating in a facility-based setting:</b> The program attests that it will maintain a ratio of 1:13 staff members to children <i>and</i> may serve a maximum group size of 26 children, if physical distancing requirements can be maintained.</li> <li>• <b>Programs operating in a private residence:</b> The program attests that it will maintain a ratio of 1:8 adults to children and may serve a maximum group size of 8 children, if physical distancing requirements can be maintained.</li> </ul>
<b>Staffing</b>	<ul style="list-style-type: none"> <li>• The program provides documentation that all staff members, volunteers, household members over the age of 15 (only if operating out of a private residence), and any other adults who will be around children (supervised or unsupervised) in the Remote Learning Enrichment Program have completed a Background Record Check (BRC) and been found suitable and appropriate to work with children, prior to working in the program.</li> </ul> <p><i>Notes about verification of Background Record Checks:</i> Prior to issuing any approval, a Municipal Approving Authority must confirm that all staff members, volunteers, household members age 15+ (if private residence), and any other adults who will be around children have completed a background record check consisting of a Criminal Offender Record Information (CORI) check, Sex Offender Registry Information (SORI) check, and Department of Children and Families (DCF) child welfare check. Fingerprint checks are strongly recommended, if available. BRC checks may be run by entities other than the Municipal Approving Authority (i.e. local police) if the Municipal Approving Authority has confirmation of compliance for these standards for all staff BRCs.</p>

<sup>2</sup> The following programs are outside the scope of this exemption and are *not* subject to the processes outlined above:

- Programs licensed by EEC
- Programs funded by EEC
- Programs working exclusively with students enrolled in high school
- Remote Learning Parent Cooperatives

<sup>3</sup> Confirmation may be established through attendance records and/or Local School District coordination

<sup>4</sup> Traditional school day hours can be determined from the scheduled school hours from the 2019-2020 school year.

	All individuals who will be around children in a Remote Learning Enrichment Program are subject to mandatory disqualifications if the results of the BRC includes findings of violent crimes, sexual crimes, or any crimes against children. The Municipal Approving Authority is responsible for confirming suitability <sup>6</sup> for all staff prior to employment or volunteering in a Remote Learning Enrichment Program.
<b>Health and Safety</b>	<ul style="list-style-type: none"> <li>• The program attests that it will follow either Department of Elementary and Secondary Education (DESE) or EEC health and safety guidance, including masking, physical distancing, and hand hygiene requirements.</li> <li>• <b>Programs operating in a facility-based setting:</b> The facility to be used by the program has up-to-date fire, lead, and applicable building inspections.<sup>7</sup></li> <li>• <b>Programs operating in a private residence:</b> The home to be used by the program has working smoke detectors located throughout the home and on all floor levels and at least two separate exits to the outside.</li> </ul>
	<i>Notes about verification of programs' adherence to health and safety guidance:</i> Prior to issuing any approval, the Municipal Approving Authority must obtain a signed Attestation Form confirming that the program understands and is prepared to implement all applicable health and safety requirements. A sample program Attestation Form is available on the EEC web site.

### Additional Considerations for Municipal Approving Authorities

**Municipalities** should establish their own processes to work with interested entities, verify their eligibility, monitor their programs, and notify EEC of any non-compliance with any of the minimum requirements A Municipal Approving Authority may impose requirements for operation of a Remote Learning Enrichment Program that exceed those issued by EEC. Municipalities may consider setting additional criteria for Remote Learning Enrichment Programs that may include, but are not limited to:

- Staff with CPR/First Aid certification
- Reliable internet access
- Ensuring there are spaces available that are free of distraction for remote learning
- Additional learning activities and/or supports for remote learning, including those geared toward children who are academically at risk
- Supports for children with disabilities
- Supports for children with special needs, including English Language Learners and children with IEPs
- Enrichment activities, including those incorporating the arts, physical education, and/or STEM
- Plans for family engagement in students' remote learning success

<sup>6</sup> Municipalities are strongly encouraged to review EEC and/or DESE BRC guidance for more information. Suggested links: <https://www.mass.gov/guides/eecs-background-record-check-process-new-requirements-starting-in-2018> and/or <http://www.doe.mass.edu/lawsregs/603cmr51.html?section=all>

<sup>7</sup> Programs serving only school aged children may be classified under the Use Group A-3, Assembly category in the Commonwealth of Massachusetts Building Code and may submit a building certificate reflecting this code to demonstrate building code compliance. Programs who serve only school aged children may, however, choose to meet the stricter standard of Use Groups E or I-2/I-4 and submit a building certificate reflecting either of these codes to prove compliance with the building codes.

## Provider Process to Apply to Become a Remote Learning Enrichment Program

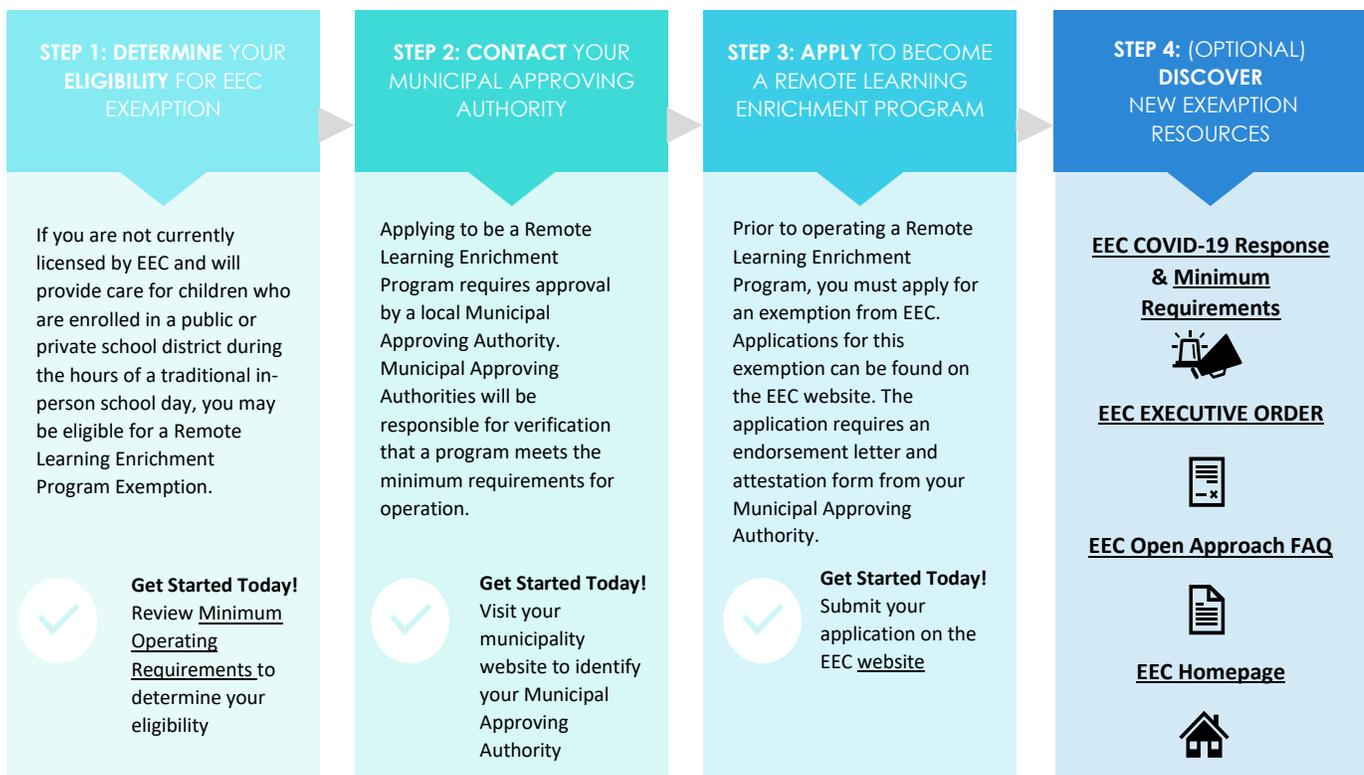
Individuals or entities interested in an exemption to operate as a Remote Learning Enrichment Program may apply through the [EEC website](#).

The application asks essential questions related to program operations. Programs will also upload the following corroborating documents from the Municipal Approving Authority:

- Approval Letter
- [Attestation Form](#)

Note: as part of the verification process, applicants will complete a [Self-Attestation](#) that they will meet Minimum Health and Safety standards. This is collected by the Municipal Approving Authority, but it is not required to be submitted to EEC.

EEC will issue an exemption for those Remote Learning Enrichment Programs whose applications are complete, submitted with the appropriate approvals and supporting documentation, deemed to be in compliance with these Minimum Operating Requirements, and have no cause for further review.



## Monitoring and Enforcement of the Remote Learning Enrichment Program

The Municipal Approving Authority is responsible for the ongoing monitoring of any exempt Remote Learning Enrichment Program to ensure that the program continues to comply with the minimum requirements for operation, and that program activities do not exceed the scope of the approved exemption.

Examples of program activities that exceed the scope include:

- A child in the program is not enrolled in public or private school.
- Caring for children during hours outside of the regular school day (ex. before or after school or weekends)
- Caring for more children than are permitted by EEC as criteria for this exemption
- Caring for children who are younger than school age, (ex. preschool)
- Not abiding by the health and safety requirements
- Employing staff that have not completed a BRC
- Operating in a manner that compromises the health, safety, or well-being of children

A Municipal Approving Authority may investigate a Remote Learning Enrichment Program, and may revoke approval for a program, for a program's failure to comply with EEC's minimum standards for operation or the scope of EEC's license exemption, for a program's failure to comply with a Municipal Approving Authority's standards for operation, or any time when a determination is made that the program is operating in a manner that presents a danger to public health, safety, or welfare.

If a Municipal Approving Authority intends to revoke its approval, it must notify EEC within 48 hours of the issuance of revocation. Notification may be issued by email to: **EECExemptions@mass.gov**.

In accordance with 102 CMR 1.00, Enforcement Standards and Definitions for Licensure and Approval, EEC may investigate any Remote Learning Enrichment Program and revoke or withhold approval of any exemption issued, including those operating within the parameters of compliance, if EEC deems necessary. EEC's authority to revoke or withhold approval is regardless of any decision made by the Municipal Approving Authority. EEC will respond to all reports or allegations of serious abuse, neglect, or if a program poses a danger to public health, safety, or welfare, in collaboration with the Municipal Approving Authority.

Any questions related to these policies may be addressed to: **EECExemptions@mass.gov**

## Appendix: Checklist for Municipal Approving Authority Approval

To support the Municipal Approving Authority in approving the entities to apply for an exemption, EEC has developed the following checklist that aligns with the policies outlined in this document.

### REQUIREMENTS FOR HEALTH AND SAFETY

- The program will follow either Department of Elementary and Secondary Education (DESE) or EEC health and safety guidance, including masking, physical distancing, and hand hygiene requirements.
- Programs operating in a facility-based setting:* The facility to be used by the program has up to date fire, lead, and applicable building inspections .
- Programs operating in a private residence:* The home to be used by the program has working smoke detectors located throughout the home and on all floor levels and at least two separate exits to the outside.
- The visit should include the collection of the signed Attestation Form from the program leader that the program leadership understands and is prepared to implement all applicable health and safety requirements.

### REQUIREMENTS FOR RATIOS AND GROUP SIZE

- Programs operating in a facility-based setting will maintain a ratio of 1:13 staff members to children and will serve a maximum group size of 26 children, provided that physical distancing requirements can be maintained.
- Programs operating in a private residence will maintain a ratio of 1:8 adults to children and will serve a maximum group size of 8 children, provided that physical distancing requirements can be maintained.

### REQUIREMENTS FOR STAFFING

- Confirmation that all staff members, volunteers, household members 15 and older (if private residence), and any other adults who will be around child have completed a background check consisting of Criminal Offender Record Information (CORI) check, Sex Offender Registry Information (SORI) check, and Department of Children and Families (DCF) child welfare check. Fingerprint checks are strongly recommended, if available.
- Note: Background checks may be run by entities other than the MAA, such as police department or school department, as long as the background check includes all necessary components.

### REQUIREMENTS FOR HEALTH AND SAFETY

- The program will follow either Department of Elementary and Secondary Education (DESE) or EEC health and safety guidance, including masking, physical distancing, and hand hygiene requirements.
- Programs operating in a facility-based setting:* The facility to be used by the program has up to date fire, lead, and applicable building inspections .
- Programs operating in a private residence:* The home to be used by the program has working smoke detectors located throughout the home and on all floor levels and at least two separate exits to the outside.
- The visit should include the collection of the signed Attestation Form from the program leader that the program leadership understands and is prepared to implement all applicable health and safety requirements.



Town of Norfolk

Judith Lizardi <jlizardi@norfolk.ma.us>

Re: Request to use Gazebo

Blythe Robinson <brobins@norfolk.ma.us>  
To: enicodemus@comcast.net, Judith Lizardi <jlizardi@norfolk.ma.us>

Tue, Aug 25, 2020 at 1:40 PM

Hi Emily,

Thanks for the update. I've copied Judith Lizardi in our office as she has been coordinating the requests to use the Gazebo. I don't know if it is booked at this time, but if not she'll help you with that (and let you know if it is).

Best regards,  
Blythe

On Tue, Aug 25, 2020 at 12:53 PM <enicodemus@comcast.net> wrote:

Hi Blythe and Select Board,

I wanted to update you and the Select Board on the progress of the Garden Club's two major town projects and to ask permission to use the town gazebo:

**Tree honoring Essential Workers during the Pandemic 2020**

The Garden Club will be planting a Vanderwolf Pine next Monday, Sept 1 at 9:30 am in the spot on town hill that we showed at the July Select Meeting and Barry and Justin of the DPW have specified. We have made arrangements through Justin. A plaque will be added to the granite base; work will be done by Norwood Monuments Works. See picture below. It will say the name of the pine tree, a Vanderwolf Pine.

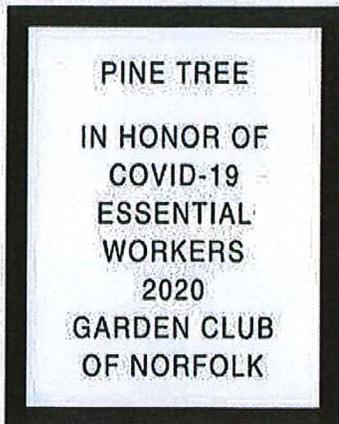
**We would like to request use of the Gazebo on Sat October 17 from 10 am – noon (with a rain date of Sunday October 18 from 1:00 pm-3:00 pm.** The Garden club would like to hold a club meeting to dedicate the Tree to Essential Workers. We will not be inviting the public due to COVID-19 out door assembly restrictions. We anticipate 20-30 members will attend this outdoor meeting.

**Veterans Memorial Garden Restoration**

We have submitted the grant to the Mass Federation of Garden Clubs and hope to receive \$2,000. The anticipated cost of the project is over \$4,000.00. The Garden Club will be seeking donations to offset the anticipated cost of the project. We will learn if we received any grant money sometime in the end of September. I have attached our planting plans.

Thank you and the Select Board for your support of our projects.

Emily Nicodemus and Michelle Noonan  
Co-Presidents  
Garden Club of Norfolk



100% 104261081 .CM 8/20/20 4" X 5" SL

9/8/2020

Town of Norfolk Mail - Re: Request to use Gazebo

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Blythe C. Robinson  
Town Administrator  
Town of Norfolk  
One Liberty Lane  
Norfolk, MA 02056  
[brobinson@norfolk.ma.us](mailto:brobinson@norfolk.ma.us)  
508-440-2855

Geoffrey Pedder  
Founder and Managing Partner  
ZĒLUS Beer Company  
1 Green Street  
Medfield, MA 02052

Dave Costabile  
Owner  
Ribpublic BBQ  
7 Boiling Spring Ave.  
Medfield, MA 02052

August 31, 2020

Re: Application for a Beer & BBQ Pop-Up at either the Norfolk Town Hill or the Green at Corner of Main Independence

To: The Board of Selectmen and All Relevant Town of Norfolk Departments

We are writing to seek approval to operate a Beer & BBQ Pop-Up on Sundays during the upcoming fall months (beginning September 13 or 20 and running through to November 1) at the Town Hill (corner of Union St and Main St, two separate locations look like they could work) or the larger green at corner of Main St and Independence Dr (opposite Walgreens). Pictures of the proposed site are included with this application. While coronavirus restrictions continue, the options to engage with customers and the community have been limited. We, like many other businesses, have had to be innovative in our business operations to survive. Together, we have successfully been running a Beer & BBQ Pop-Up on a weekly basis in Medfield at Meeting House Park on Saturdays. It has been very successful within the community, and we have had requests from residents of other towns to do the same for their community. Being that Norfolk is local we would like to request bringing a similar event to Norfolk. We have operated the Medfield outdoor pop-up safely since July, with social distancing requirements being met, including a maximum of 6 people a table, those tables/chairs being 6 feet apart and masks being mandatory until people are seated. All permitting and BOH approvals have been met in Medfield and with your help, the same would be done in Norfolk. Food would be provided by Ribpublic BBQ and potentially other Norfolk approved food vendors, **the beer would be provided by ZĒLUS Beer Company.** In the last month that we have had the pop-up in Medfield, we have found that it has helped to bring the community together in what has been a difficult time for everyone. Below we outline some more details of the proposal.

- Dates – Sundays from September 13 or 20 thru November 1
- Times – 12-7pm
- Estimated Maximum Attendance – The current state coronavirus restriction on outdoor gatherings is 50 persons at any one time, we would abide by this restriction and any future coronavirus related capacity adjustments made by the state.

- Alcohol One-Day Licenses - Since alcohol would be served included in this request is the approval of multiple one-day alcohol licenses to serve and sell beer. All our servers would be TIPS certified. Zelus has operated events under one-day licenses in many towns in the local area, including Medfield, Ashland, Hingham and Dover.
- Tables and Chairs - As is currently mandated by the state we would provide tables and chairs for up to 6 persons per table and 6 feet between each table/chair setup.
- Tent – Both of our serving areas would be tented.
- If required we would be able to rope off the entire event area.
- Food – Food to be provided by Ribpublic BBQ, and potentially other vendors where they are approved by the Town of Norfolk. Ribpublic BBQ has already met all requirements of Medfield Board of Health related to the new serving rules. Ribpublic BBQ has received permission to serve in multiple local towns.
- Music – We request permission to have acoustic music played.
- Sanitation – We would be responsible for clean up at the end of the day. Where would the Town want us to leave trash and recycling for collection?

As the year is quickly going by, we thank you in advance for your attention to this proposal and welcome any questions you may have. I hope that you look upon this proposal favorably and please let us know what the required next steps would be.

Best regards,

Geoffrey Pedder

Dave Costabile

[geoff@zelusbeer.com](mailto:geoff@zelusbeer.com)  
(617)-510-0260

[dave@ribpublicbbq.com](mailto:dave@ribpublicbbq.com)  
(774) 458-8227



Town of Norfolk

Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

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**Re: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk**

1 message

**Nancy Langlois** <nlanglois@norfolk.ma.us>

Thu, Sep 3, 2020 at 5:22 PM

To: Geoffrey Pedder &lt;geoff@zelusbeer.com&gt;

Cc: Betsy Fijol &lt;bfijol@norfolk.ma.us&gt;

Hello Again Geoffrey,

Attached is an application for a one-day alcohol license for the beer and BBQ pop-up event you are interested in holding on Town Hill. Please complete the application, scan and return all required information to me. Once your application package is reviewed and complete, I can begin the process to present your request to the Select Board for their consideration. Payment can be held off pending the Board's determination. I have also copied Betsy Fijol of the Board of Health who you will need to contact regarding food permitting.

A couple of questions I have at this time:

- Will you be serving malts only?
- Will you be the only vendor serving alcohol?
- How many food vendor's do you anticipate?

If you have any questions, please do not hesitate to contact me.

I will be back in the office on Tuesday morning.

Regards,

Nancy Langlois

On Mon, Aug 31, 2020 at 2:46 PM Geoffrey Pedder &lt;geoff@zelusbeer.com&gt; wrote:

Hello Nancy (I believe this is what Kevin said your name is),

I spoke to Kevin Kalkut earlier about a proposal for a Zelus Beer and BBQ outdoor popup in the center of Norfolk. Please find our application attached, including some image of the proposed sites for visual reference. Thank you for the consideration.

Cheers,

Geoff.

Geoff Pedder, Founder and Managing Partner

[geoff@zelusbeer.com](mailto:geoff@zelusbeer.com)

617-510-0260



Town of Norfolk

Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

---

**RE: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk**

1 message

**Geoffrey Pedder** <geoff@zelusbeer.com>

Mon, Sep 7, 2020 at 1:02 PM

To: Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

Cc: Betsy Fijol &lt;bfijol@norfolk.ma.us&gt;, Dave Costabile &lt;dave@ribpublicbbq.com&gt;

Hi Nancy,

Thank you for the email and application. I have completed the application – please see attached. I have written a check for \$25, and will drop it off if the Board approves the application. In the case that they approve multiple days, what would the fee be? I applied for multiple days on the application. A sketch of the premises and a description of beer sales are also attached. I have sent an email to my insurance agent for a COI. Can you let me know the phone number or email for the police chief so that I can reach out to them?

To answer your questions below –

Yes we will be serving malt (beer) only.

Yes we will be the only vendor selling alcohol.

Ribpublic BBQ will be the primary food vendor and I have asked Dave from Ribpublic BBQ to complete the BOH application. I also have a food manager certificate and allergen awareness certificate. I would like to have Cousin's Maine Lobster and Sentie's Kitchen each maybe on one occasion as food vendors for variety. Both are approved for our popup in Medfield. Please let me know if this is possible.

Cheers,

Geoff.

geoff@zelusbeer.com

617-510-0260

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**From:** Nancy Langlois <nlanglois@norfolk.ma.us>  
**Sent:** Thursday, September 3, 2020 5:23 PM  
**To:** Geoffrey Pedder <geoff@zelusbeer.com>  
**Cc:** Betsy Fijol <bfijol@norfolk.ma.us>  
**Subject:** Re: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk

Hello Again Geoffrey,

Attached is an application for a one-day alcohol license for the beer and BBQ pop-up event you are interested in holding on Town Hill. Please complete the application, scan and return all required information to me. Once your application



**TOWN OF NORFOLK**  
 OFFICE OF THE SELECT BOARD  
 ONE LIBERTY LANE, NORFOLK, MA 02056



508-440-2855

Updated 02/19/2020

**Special One-Day Alcoholic Beverages License Application**

License Fee: \$25.00

**Select One:**

All Alcohol

Wine/Malt Only

*non-profits only, submit proof of IRS 501(c)(3) status*

*for-profits or non-profits*

Name of Applicant and/or Organization Applying (name to appear on license):

Zelus Beer Company LLC

Full Address: 1 Green St, Medford, MA 02052

Applicant's Cell Number: 617-510-0260

Organization Phone: 774-469-3961

Applicant's Email: geoff@zelusbeer.com

Organization Email: info@zelusbeer.com

Event Date: Sunday, Sep 20 Sunday, Oct 18  
Sunday, Sep 27 Sunday, Oct 25  
Sunday, Oct 4 Sunday, Nov 1  
Sunday, Oct 11

Hours of Event (from/to): 12-7pm

Expected Number of Attendees: 50 at one time  
(including staff)

Age Range of Attendees: All  
Those purchasing/  
consuming beer  
21 years & above.

Have the individual(s) who will be serving alcohol completed an appropriate server-training program?  
 YES Bartenders and/or servers of alcohol, beer and/or wine must have completed an appropriate Massachusetts Alcoholic Beverages Server Training program.

On a separate piece of paper, please describe the manner in which alcohol will be served to your guests to ensure compliance with existing laws (check IDs, table service/bar, etc.) and specify the manner by which service of such beverages, if minors are in attendance, will be controlled. Minors are not allowed within the area where alcohol beverages are dispensed.

On a separate piece of paper, please attach a floor plan (8.5x11 white paper) of the event area, showing the exact location where alcoholic beverages will be delivered, sold/served and consumed, and indicate all entrances and exits. This can be hand-drawn, if necessary.

**Special One-Day licensees must purchase alcoholic beverages from a licensed supplier. Special licensees cannot purchase alcoholic beverages from a package store and cannot accept donations of alcoholic beverages from anyone. For a list of licensed suppliers, visit <http://www.mass.gov/abcc/onedavauthorized.htm>**

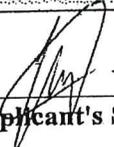
**TOWN OF NORFOLK LIABILITY DISCLAIMER FOR SPECIAL ONE-DAY LICENSES**

By exercising the privileges of this Special One-Day License in serving persons with alcoholic beverages, the Licensee is potentially exposed to significant liability for injuries and damages to the persons served or to others who are injured or damaged by the persons served. Your acceptance and exercise of this Special One-Day License will be deemed to be acknowledgement that you are aware of this potential liability.

You are encouraged to discuss the risks associated with exercising your privileges of this Special One-Day License and the appropriate precautions to avoid injuries, damage and liability to others with your legal advisor.

The Town of Norfolk and the Select Board, acting as the Local Licensing Authority, shall not be liable to the Licensee or to others if injury or damage shall result from the exercise of this Special One-Day License.

By signing this form, the Applicant acknowledges that he/she understands and will comply with all applicable liquor regulations set forth by the Alcoholic Beverages Control Commission and the Licensing Authority of the Town of Norfolk.

  
Applicant's Signature

9/7/2020  
Date

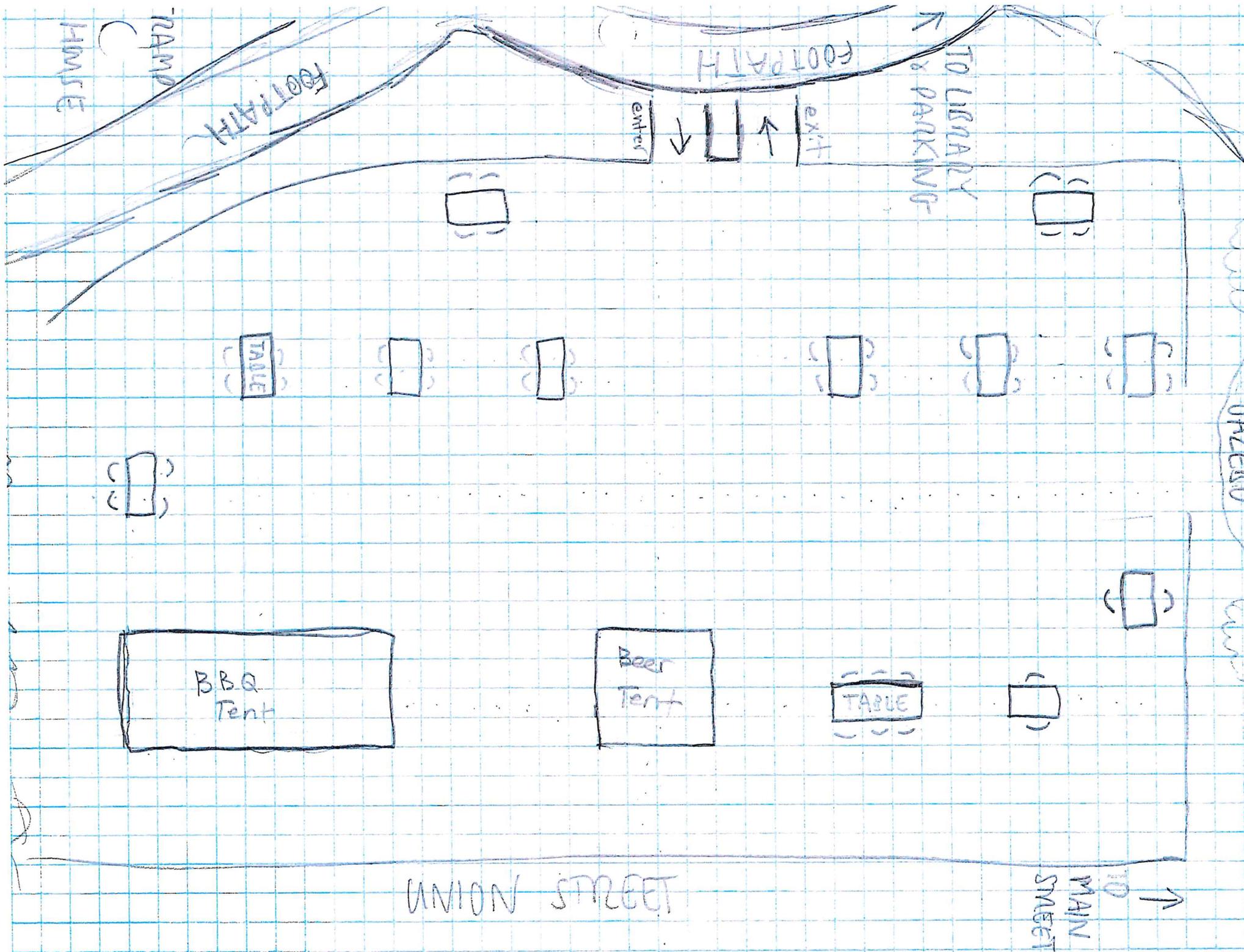
**REQUIRED DOCUMENTATION TO SUBMIT WITH APPLICATION:**

- Completed license application with cash/check fee, made payable to *Town of Norfolk*
- Invitation/flyer/letter of explanation regarding event
- N/A  Proof of non-profit status (for All Alcohol license only)
- Certificate of Liability Insurance, providing coverage for fire, premises liability, and liquor liability with reasonable limits of coverage, except that liquor liability shall have minimum coverage of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, whereas the policy shall carry an endorsement that the Town of Norfolk shall be notified by the insurer no less than ten days prior to the cancellation of said coverage. **The Town of Norfolk must be named on the certificate as an additional insured for the event.**
- Sketch of premises of a reasonable precise nature that clearly delineates the location and manner in which alcoholic beverages will be served/sold, delivered, and/or dispensed.
- Letter/email/receipt from the Police Department, indicating a police detail has been secured for the event. Or evidence that it has been waived by the Police Chief.

**GUIDELINES:**

- Application for Special One-Day License must be submitted one month prior to event.
- Alcohol may only be served at an open bar if a bona fide invitation is received by all attendees.
- Events can only be held on day and date approved on license. No refund is possible after a Special One-Day License has been issued if not used on date specified.
- Alcohol must be delivered the day of the event and removed from the premises after the event, by the expiration of the Special One-Day License.
- Special One-Day Licenses can only be issued for events occurring between 11:00am - 11:00pm, Monday - Saturday; and Noon - 11:00 p.m. on Sundays.
- No person shall be granted a special license more than thirty (30) times in a calendar year.
- License must be posted in the most conspicuous place at the location of event.
- DO NOT allow anyone to bring their own alcoholic beverages to your event.
- Control and properly police the area where the alcoholic beverages are being dispensed. Do not permit persons to carry their alcoholic beverages outside the approved area for consumption.
- If 150 or more guests will be attending the event, a detail will be required. An additional officer will be required for each additional 150 people unless waived by the Police Chief **in writing**. When a police detail is required, it shall begin ½ hour prior to guests' arrival and continue until all guests have left the premises. It is the applicant's responsibility to coordinate these details. Payment of the detail is the responsibility of the applicant at applicable rates.

Failure to abide by the above listed guidelines or by any provision of the laws or regulations pertaining to alcoholic beverages shall be grounds to deny, suspend or revoke any Special One-Day License issued under M.G.L. Chapter 138, Section 14.



Re: Application for a Beer & BBQ Pop-Up at either the Norfolk Town Hill or the Green at Corner of Main Independence

#### Description of Beer Sales

Beer for on premise consumption will be predominantly served at tables. Per current COVID-19 rules all beer orders must be accompanied with a table food order. There will be a limited bar service, but efforts to avoid queuing will be made. Draft pints in plastic cups and cans will be sold for on premise consumption. Masks are mandated when not sitting at a table. All bartenders will be TIPS certified. Everyone below the age of 30 will be required to present a government issued ID. Beer will only be sold to those 21 and older. If someone is buying more than one beer we will check who those drinks are for and make sure that they are also over 21 or older.











Town of Norfolk

Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

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## Zelus Outdoor Popup at Norfolk Town Hill

1 message

**Geoffrey Pedder** <geoff@zelusbeer.com>

Tue, Sep 8, 2020 at 3:41 PM

To: "cstone@norfolk.ma.us" &lt;cstone@norfolk.ma.us&gt;

Cc: Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

Hello Charles/Town of Norfolk Police Department,

I am writing to you to inform you about a Zelus Beer Company outdoor popup with food application we just made to the Town of Norfolk. We are seeking to have the event on the Town Hill in the center of Norfolk on Sundays. I have attached 4 relevant documents for your information. The state currently mandates a limit of 50 people at outdoor gatherings so we would like to request a waive to the need for a police detail. We have organized many beer gardens/popups over the last few years in local towns and currently have one operating on Saturdays in Medfield. If it would be easier for you to chat by phone about the event, please call me at your convenience on 617-510-0260. Thank you.

Cheers,

Geoff.

[geoff@zelusbeer.com](mailto:geoff@zelusbeer.com)

617-510-0260

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### 4 attachments

**Description of Beer Sales.docx**

13K

**Norfolk One-Day License Popup Application.pdf**

1989K

**Norfolk Popup Sketch.pdf**

715K

**Application for a Zelus Beer and BBQ Popup in Norfolk.docx**

18K



Town of Norfolk

Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

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**Fwd: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk**

1 message

Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

Wed, Sep 9, 2020 at 1:42 PM

To: Charles Stone &lt;cstone@norfolk.ma.us&gt;, Erron Kinney &lt;ekinney@norfolk.ma.us&gt;, Blair Crane &lt;bcrane@norfolk.ma.us&gt;, Elisabeth O'Neill &lt;eoneill@sailsinc.org&gt;

Cc: Blythe Robinson &lt;brobins@norfolk.ma.us&gt;, Bob Bullock &lt;bbullock@norfolk.ma.us&gt;, Betsy Fijol &lt;bfijol@norfolk.ma.us&gt;, Judith Lizardi &lt;jlizardi@norfolk.ma.us&gt;

Good Afternoon,

Attached please find an application and supporting documentation for multiple One-Day Alcohol licenses for Beer and BBQ events to be held on Town Hill on Sundays (Sept. 20 - November 1st) from ZeLUS Beer Company. I am currently reaching out to the applicant for more details (i.e., tent size, what type of entertainment, will they be holding events during inclement weather, how will they dispose of trash, and set up and breakdown details). However, we wanted to get your comments and/or concerns as we are attempting to place this on the Select Board's September 15th meeting agenda. The food vendor(s) have reached out to the Board of Health for appropriate permits. Our initial thoughts on parking are that perhaps the library parking lot would work out for the event. (Libby - could you please provide feedback?)

Please review the information and get back to me (if at all possible) by 1:00 tomorrow afternoon.

If you have any questions, please do not hesitate to contact me.

Thank you.

Regards,

Nancy

----- Forwarded message -----

From: **Geoffrey Pedder** <geoff@zelusbeer.com>

Date: Mon, Aug 31, 2020 at 2:46 PM

Subject: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk

To: nlanglois@norfolk.ma.us &lt;nlanglois@norfolk.ma.us&gt;

Cc: Dave Costabile &lt;dave@ribpublicbbq.com&gt;

Hello Nancy (I believe this is what Kevin said your name is),

I spoke to Kevin Kalkut earlier about a proposal for a Zelus Beer and BBQ outdoor popup in the center of Norfolk. Please find our application attached, including some image of the proposed sites for visual reference. Thank you for the consideration.

Cheers,

Geoff.

Geoff Pedder, Founder and Managing Partner

[geoff@zelusbeer.com](mailto:geoff@zelusbeer.com)



Town of Norfolk

Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

## Re: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk

1 message

**Charles Stone** <cstone@norfolk.ma.us>

Wed, Sep 9, 2020 at 2:11 PM

To: Nancy Langlois <nlanglois@norfolk.ma.us>

I am not going to require a police detail. It is a home game at Gillette Stadium and this year I am not sure what if any traffic flow will come through Norfolk due to the Covid 19 issue. I would tell him no parking on Route 115. I am sure Blair could tape that off with yellow tape and orange barrels to keep parking out of that area.

CS

On Wed, Sep 9, 2020 at 2:00 PM Nancy Langlois <nlanglois@norfolk.ma.us> wrote:

Thanks Chief. Will do all of the above. I saw they reached out to you regarding police details. Will you be requiring this?

Nancy

On Wed, Sep 9, 2020 at 1:57 PM Charles Stone <cstone@norfolk.ma.us> wrote:

Nancy

I am generally not a fan of selling alcohol on public property but.....

1. I would ask that the area be roped off as he states.
2. I would advise him he can remove his own trash and recyclables at the end of each day, this event should not require an already strapped department to have to remove their trash.
3. I would ask that no music be played until the Federated Church Services and coalition after the service is over.
4. I would require that they provide the documentation of TIPS certified servers be provided prior to each event to the Town of Norfolk.

Chief Stone

On Wed, Sep 9, 2020 at 1:42 PM Nancy Langlois <nlanglois@norfolk.ma.us> wrote:

Good Afternoon,

Attached please find an application and supporting documentation for multiple One-Day Alcohol licenses for Beer and BBQ events to be held on Town Hill on Sundays (Sept. 20 - November 1st) from ZeLUS Beer Company. I am currently reaching out to the applicant for more details (i.e., tent size, what type of entertainment, will they be holding events during inclement weather, how will they dispose of trash, and set up and breakdown details). However, we wanted to get your comments and/or concerns as we are attempting to place this on the Select Board's September 15th meeting agenda.

The food vendor(s) have reached out to the Board of Health for appropriate permits. Our initial thoughts on parking are that perhaps the library parking lot would work out for the event. (Libby - could you please provide feedback?)

Please review the information and get back to me (if at all possible) by 1:00 tomorrow afternoon.

If you have any questions, please do not hesitate to contact me.

Thank you.

Regards,

Nancy

----- Forwarded message -----

From: **Geoffrey Pedder** <geoff@zelusbeer.com>

Date: Mon, Aug 31, 2020 at 2:46 PM

Subject: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk



Town of Norfolk

Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

---

**Re: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk**

1 message

**Blair Crane** <bcrane@norfolk.ma.us>

Wed, Sep 9, 2020 at 2:01 PM

To: Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

Cc: Charles Stone &lt;cstone@norfolk.ma.us&gt;, Erron Kinney &lt;ekinney@norfolk.ma.us&gt;, Elisabeth O'Neill &lt;eoneill@sailsinc.org&gt;, Blythe Robinson &lt;brobins@norfolk.ma.us&gt;, Bob Bullock &lt;bbullock@norfolk.ma.us&gt;, Betsy Fijol &lt;bfijol@norfolk.ma.us&gt;, Judith Lizardi &lt;jlizardi@norfolk.ma.us&gt;

Nancy,

- 1.) The DPW would like to request that any tents used would be fully disassembled, including tent stakes being removed so that the grounds crew can have full access to mowing and leaf blowing throughout the fall.
- 2.) Is there a possibility that an overflow of vehicles will want to park on 115 between the rotaries? If so, no parking would have to be enforced on 115 as there is no available space to park here in this highly traveled area.
- 3.) Trash pickup and disposal plan?

Regards,

**Blair J. Crane**

Director

Norfolk Dept of Public Works

[33 Medway Branch](#)[Norfolk, MA 02056](#)[BCrane@Norfolk.ma.us](mailto:BCrane@Norfolk.ma.us)

(508) 528-4990

On Wed, Sep 9, 2020 at 1:42 PM Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt; wrote:

Good Afternoon,

Attached please find an application and supporting documentation for multiple One-Day Alcohol licenses for Beer and BBQ events to be held on Town Hill on Sundays (Sept. 20 - November 1st) from ZeLUS Beer Company. I am currently reaching out to the applicant for more details (i.e., tent size, what type of entertainment, will they be holding events during inclement weather, how will they dispose of trash, and set up and breakdown details). However, we wanted to get your comments and/or concerns as we are attempting to place this on the Select Board's September 15th meeting agenda. The food vendor(s) have reached out to the Board of Health for appropriate permits. Our initial thoughts on parking are that perhaps the library parking lot would work out for the event. (Libby - could you please provide feedback?)

Please review the information and get back to me (if at all possible) by 1:00 tomorrow afternoon.

If you have any questions, please do not hesitate to contact me.



Town of Norfolk

Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

---

**Re: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk**

1 message

**Erron Kinney** <ekinney@norfolk.ma.us>

Wed, Sep 9, 2020 at 2:17 PM

To: Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

Cc: Charles Stone &lt;cstone@norfolk.ma.us&gt;, Blair Crane &lt;bcrane@norfolk.ma.us&gt;, Elisabeth O'Neill &lt;eoneill@sailsinc.org&gt;, Blythe Robinson &lt;brobinson@norfolk.ma.us&gt;, Bob Bullock &lt;bbullock@norfolk.ma.us&gt;, Betsy Fijol &lt;bfijol@norfolk.ma.us&gt;, Judith Lizardi &lt;jlizardi@norfolk.ma.us&gt;

I have spoken with the owner of Ribpublic BBQ to discuss heat sources for food prep. Their plan involves food warmers powered by generators and they will have fire extinguishers on site. No actual cooking will be done on site. The FD has no comment or concerns.

On Wed, Sep 9, 2020 at 1:42 PM Nancy Langlois <nlanglois@norfolk.ma.us> wrote:

Good Afternoon,

Attached please find an application and supporting documentation for multiple One-Day Alcohol licenses for Beer and BBQ events to be held on Town Hill on Sundays (Sept. 20 - November 1st) from ZeLUS Beer Company. I am currently reaching out to the applicant for more details (i.e., tent size, what type of entertainment, will they be holding events during inclement weather, how will they dispose of trash, and set up and breakdown details). However, we wanted to get your comments and/or concerns as we are attempting to place this on the Select Board's September 15th meeting agenda. The food vendor(s) have reached out to the Board of Health for appropriate permits. Our initial thoughts on parking are that perhaps the library parking lot would work out for the event. (Libby - could you please provide feedback?)

Please review the information and get back to me (if at all possible) by 1:00 tomorrow afternoon.

If you have any questions, please do not hesitate to contact me.

Thank you.

Regards,

Nancy

----- Forwarded message -----

From: **Geoffrey Pedder** <geoff@zelusbeer.com>

Date: Mon, Aug 31, 2020 at 2:46 PM

Subject: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk

To: nlanglois@norfolk.ma.us <nlanglois@norfolk.ma.us>

Cc: Dave Costabile <dave@ribpublicbbq.com>

Hello Nancy (I believe this is what Kevin said your name is),

I spoke to Kevin Kalkut earlier about a proposal for a Zelus Beer and BBQ outdoor popup in the center of Norfolk. Please find our application attached, including some image of the proposed sites for visual reference. Thank you for the consideration.

Cheers,

Geoff.



Town of Norfolk

Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

---

**Re: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk**

1 message

**Bob** <bbullock@norfolk.ma.us>

Wed, Sep 9, 2020 at 2:21 PM

To: Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

Nancy,

Do you know the size of the tents? My main concern is the tents and whether they need a permit or not.

Just a thought, how do you think this will go over for those restaurants in town that are struggling and paying taxes to the town?

Regards,

Bob

On Wed, Sep 9, 2020 at 1:42 PM Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt; wrote:

Good Afternoon,

Attached please find an application and supporting documentation for multiple One-Day Alcohol licenses for Beer and BBQ events to be held on Town Hill on Sundays (Sept. 20 - November 1st) from ZeLUS Beer Company. I am currently reaching out to the applicant for more details (i.e., tent size, what type of entertainment, will they be holding events during inclement weather, how will they dispose of trash, and set up and breakdown details). However, we wanted to get your comments and/or concerns as we are attempting to place this on the Select Board's September 15th meeting agenda. The food vendor(s) have reached out to the Board of Health for appropriate permits. Our initial thoughts on parking are that perhaps the library parking lot would work out for the event. (Libby - could you please provide feedback?)

Please review the information and get back to me (if at all possible) by 1:00 tomorrow afternoon.

If you have any questions, please do not hesitate to contact me.

Thank you.

Regards,

Nancy

----- Forwarded message -----

From: **Geoffrey Pedder** <geoff@zelusbeer.com>

Date: Mon, Aug 31, 2020 at 2:46 PM

Subject: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk

To: nlanglois@norfolk.ma.us &lt;nlanglois@norfolk.ma.us&gt;

Cc: Dave Costabile &lt;dave@ribpublicbbq.com&gt;

Hello Nancy (I believe this is what Kevin said your name is),

I spoke to Kevin Kalkut earlier about a proposal for a Zelus Beer and BBQ outdoor popup in the center of Norfolk. Please find our application attached, including some image of the proposed sites for visual reference. Thank you for the consideration.



Town of Norfolk

Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

---

**Re: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk**

1 message

**Elisabeth O'Neill** <eoneill@sailsinc.org>

Wed, Sep 9, 2020 at 2:25 PM

To: Blair Crane &lt;bcrane@norfolk.ma.us&gt;

Cc: Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;, Charles Stone &lt;cstone@norfolk.ma.us&gt;, Erron Kinney &lt;ekinney@norfolk.ma.us&gt;, Blythe Robinson &lt;brobins@norfolk.ma.us&gt;, Bob Bullock &lt;bbullock@norfolk.ma.us&gt;, Betsy Fijol &lt;bfijol@norfolk.ma.us&gt;, Judith Lizardi &lt;jlizardi@norfolk.ma.us&gt;

Hi Nancy,

Thank you for including the library in this email. We're closed on Sundays year round now, so using the library parking lot wouldn't conflict with patrons parking to use the library.

Thanks,

Libby

On Wed, Sep 9, 2020 at 2:01 PM Blair Crane &lt;bcrane@norfolk.ma.us&gt; wrote:

Nancy,

- 1.) The DPW would like to request that any tents used would be fully disassembled, including tent stakes being removed so that the grounds crew can have full access to mowing and leaf blowing throughout the fall.
- 2.) Is there a possibility that an overflow of vehicles will want to park on 115 between the rotaries? If so, no parking would have to be enforced on 115 as there is no available space to park here in this highly traveled area.
- 3.) Trash pickup and disposal plan?

Regards,

**Blair J. Crane**

Director

Norfolk Dept of Public Works

33 Medway Branch

Norfolk, MA 02056

BCrane@Norfolk.ma.us

(508) 528-4990

On Wed, Sep 9, 2020 at 1:42 PM Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt; wrote:

Good Afternoon,

Attached please find an application and supporting documentation for multiple One-Day Alcohol licenses for Beer and BBQ events to be held on Town Hill on Sundays (Sept. 20 - November 1st) from ZeLUS Beer Company. I am



Town of Norfolk

Nancy Langlois <nlanglois@norfolk.ma.us>

**Re: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk**

1 message

**Blair Crane** <bcrane@norfolk.ma.us>

Wed, Sep 9, 2020 at 2:47 PM

To: Nancy Langlois <nlanglois@norfolk.ma.us>

Nancy,

Physically putting them out is simple enough but an on call DPW employee would need to come in to put out barrels and tape, then come back to clean them all up.

Being a Sunday, the union contract would require double time pay for these calls which may be expensive.

Regards,

**Blair J. Crane**

Director

Norfolk Dept of Public Works

33 Medway Branch

Norfolk, MA 02056

[BCrane@Norfolk.ma.us](mailto:BCrane@Norfolk.ma.us)

(508) 528-4990

On Wed, Sep 9, 2020 at 2:29 PM Nancy Langlois <nlanglois@norfolk.ma.us> wrote:  
Sorry Blair, I accidentally sent that last email without any explanation.

Please note the Chief's comment regarding parking on Rt. 115. Would you be able to tape off with yellow tape and orange barrels to keep parking out of that area as he suggests?

Thanks,

Nancy

On Wed, Sep 9, 2020 at 2:22 PM Nancy Langlois <nlanglois@norfolk.ma.us> wrote:

----- Forwarded message -----

From: **Charles Stone** <cstone@norfolk.ma.us>

Date: Wed, Sep 9, 2020 at 2:13 PM

Subject: Re: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk

To: Nancy Langlois <nlanglois@norfolk.ma.us>

I am not going to require a police detail. It is a home game at Gillette Stadium and this year I am not sure what if any traffic flow will come through Norfolk due to the Covid 19 issue. I would tell him no parking on Route 115. I am



Town of Norfolk

Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

---

**Re: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk**

1 message

**Bob** <bbullock@norfolk.ma.us>

Wed, Sep 9, 2020 at 2:21 PM

To: Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

Nancy,

Do you know the size of the tents? My main concern is the tents and whether they need a permit or not.

Just a thought, how do you think this will go over for those restaurants in town that are struggling and paying taxes to the town?

Regards,

Bob

On Wed, Sep 9, 2020 at 1:42 PM Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt; wrote:

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Please review the information and get back to me (if at all possible) by 1:00 tomorrow afternoon.

If you have any questions, please do not hesitate to contact me.

Thank you.

Regards,

Nancy

----- Forwarded message -----

From: **Geoffrey Pedder** <geoff@zelusbeer.com>

Date: Mon, Aug 31, 2020 at 2:46 PM

Subject: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk

To: nlanglois@norfolk.ma.us &lt;nlanglois@norfolk.ma.us&gt;

Cc: Dave Costabile &lt;dave@ribpublicbbq.com&gt;

Hello Nancy (I believe this is what Kevin said your name is),

I spoke to Kevin Kalkut earlier about a proposal for a Zelus Beer and BBQ outdoor popup in the center of Norfolk. Please find our application attached, including some image of the proposed sites for visual reference. Thank you for the consideration.



Town of Norfolk

Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

---

**Re: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk**

1 message

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**Nancy Langlois** <nlanglois@norfolk.ma.us>  
To: Geoff Pedder <geoff@zelusbeer.com>  
Cc: Blythe Robinson <brobenson@norfolk.ma.us>

Wed, Sep 9, 2020 at 5:27 PM

Hi Geoff,

Thank you for your application for one-day alcohol licenses for various Sundays in September, October and November to take place in the Town of Norfolk. The Town also acknowledges your requests to hold a "Popup BBQ" with one or more vendors, and a request for an entertainment license.

You mention 2 locations in which you are possibly interested in holding the events. The Town of Norfolk through the Select Board issues permits for usage of Town Hill. Attached is the Town Hill Usage Policy. The 2nd location (Main Street and Independence) you mention is not owned by the Town. This email will discuss requirements for events held at Town Hill only. If you choose to hold the events at the 2nd location, you must first secure arrangements with the owner of that property and then apply for one-day alcohol and vending licenses through the Town. Please note that there is a \$100 security deposit required by the Town for use of Town Hill. This deposit will be returned once it is determined that the area is left clean of refuse, there is no damage to the property and there have been no violations. There is also a \$10 fee (per event) if electricity is used.

To answer your question regarding fees for multiple days, you would be required to pay \$25 per one-day license (for each event).

As this is not a typical request that the Town is familiar with, there are some questions as well as additional requirements that will need to be addressed prior to bringing it before the Select Board for their consideration. The Select Board will be meeting on September 15th and we will attempt to get your request on the agenda for that meeting. To do this, we will need to receive the additional information requested from you by tomorrow afternoon (1:00 p.m.) to include in their packets which are published for the public.

Please provide the following:

- 1) Your Farmer-Brewery License issued by the ABCC
- 2) TIPS certificates for servers will be required prior to each event. Please provide TIPS certificates for the event to be held on September 20th
- 3) Information on tents: How many tents will be set up during the events? What are the sizes of the tents? A tent permit(s) from the Town's Building Dept. will be required if the tent is larger than 120 square feet. There may be a fee involved with the permit(s).
- 4) What will you intend to do in the case of inclement weather? Will the event be cancelled?
- 5) A completed Entertainment Application (attached). There may be fees involved with entertainment - both for electric use and the license itself. (The Police Department is requiring that you refrain from any music until after the Federated Church service and coalition after the service is over.)

Please note the following:

- The DPW is requiring that any tents used would be fully disassembled and removed from the area each week, including tent stakes being removed so that the grounds crew can have full access to mowing and leaf blowing throughout the fall. This would also be the case for tables/chairs, etc.
- The Police Department is requiring the area to be roped off as stated in your request.
- As you will note on the Town Hill Usage Policy, it may be possible for the DPW to remove the trash from the site for a fee. We have requested information from the DPW as to the process and fee and will forward that information to you as soon as it is obtained.
- Parking at the Norfolk Town Library may be available and required.

Please do not hesitate to contact me with any questions you may have.

Have a great evening.



Town of Norfolk

Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

---

**Re: Zelus Beer Company LLC**

1 message

**Nancy Langlois** <nlanglois@norfolk.ma.us>

Thu, Sep 10, 2020 at 11:01 AM

To: Geoffrey Pedder &lt;geoff@zelusbeer.com&gt;

Good Morning Geoffrey,

In reviewing the certificate provided, the following items need to be amended:

- The Town of Norfolk must be listed as an additional insured on all items detailed in the Required Documentation section of the one-day liquor license application - not just General Liability;
- Under the remarks heading of the certificate, the Town requests the wording to further include ".....when required by written contract, agreement **or license**."
- Liquor liability shall have a minimum coverage of \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

If you have any questions, please do not hesitate to contact me.

Regards,

Nancy Langlois

On Tue, Sep 8, 2020 at 2:53 PM Geoffrey Pedder <geoff@zelusbeer.com> wrote:

Hello Nancy,

Please find attached the certificates of insurance in relation to the Zelus outdoor popup at the Town Hill in Norfolk.

I believe the next thing on the list is communicating to the police chief.

Thank you!!

Cheers,

Geoff.

Begin forwarded message:

**From:** "Chakraborty, Ruchi" <RChakraborty@easterninsurance.com>

**Date:** September 8, 2020 at 2:37:06 PM EDT

**To:** Geoffrey Pedder <geoff@zelusbeer.com>

**Subject:** Zelus Beer Company LLC

Hi,

Attached you will find the certificates of insurance as requested.

Thank you.

**Ruchi Chakraborty**



Town of Norfolk

Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

---

**RE: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk**

1 message

**Geoffrey Pedder** <geoff@zelusbeer.com>

Thu, Sep 10, 2020 at 11:38 AM

To: Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

Cc: Blythe Robinson &lt;brobins@norfolk.ma.us&gt;

Hi Nancy,

I have read the Town Usage Policy and everything sounds totally reasonable, and the \$100 security deposit is fine. We do not need to use the second location, and only intend to use the Town Hill at this time. If something changes in that regard I will let you know. We will only need electricity if we receive permission to have music, with amplification, and on those days we have music. I have attached the entertainment license application – what is the fee? For your additional questions/points I have responded in blue below.

Cheers,

Geoff.

[geoff@zelusbeer.com](mailto:geoff@zelusbeer.com)

617-510-0260

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**From:** Nancy Langlois <nlanglois@norfolk.ma.us>**Sent:** Wednesday, September 9, 2020 5:28 PM**To:** Geoffrey Pedder <geoff@zelusbeer.com>**Cc:** Blythe Robinson <brobins@norfolk.ma.us>**Subject:** Re: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk

Hi Geoff,

Thank you for your application for one-day alcohol licenses for various Sundays in September, October and November to take place in the Town of Norfolk. The Town also acknowledges your requests to hold a "Popup BBQ" with one or more vendors, and a request for an entertainment license.

You mention 2 locations in which you are possibly interested in holding the events. The Town of Norfolk through the Select Board issues permits for usage of Town Hill. Attached is the Town Hill Usage Policy. The 2nd location (Main Street and Independence) you mention is not owned by the Town. This email will discuss requirements for events held at Town Hill only. If you choose to hold the events at the 2nd location, you must first secure arrangements with the owner of that property and then apply for one-day alcohol and vending licenses through the Town. Please note that there is a \$100 security deposit required by the Town for use of Town Hill. This deposit will be returned once it is determined that the area is left clean of refuse, there is no damage to the property and there have been no violations. There is also a \$10 fee (per event) if electricity is used.

To answer your question regarding fees for multiple days, you would be required to pay \$25 per one-day license (for each event).

As this is not a typical request that the Town is familiar with, there are some questions as well as additional requirements that will need to be addressed prior to bringing it before the Select Board for their consideration. The Select Board will be meeting on September 15th and we will attempt to get your request on the agenda for that meeting. To do this, we will need to receive the additional information requested from you by tomorrow afternoon (1:00 p.m.) to include in their packets which are published for the public.

Please provide the following:

- 1) Your Farmer-Brewery License issued by the ABCC [Attached](#).
- 2) TIPS certificates for servers will be required prior to each event. Please provide TIPS certificates for the event to be held on September 20<sup>th</sup> [It will likely be myself and Chris Dyson on September 20<sup>th</sup>. I have attached our TIPS/alcohol intervention cards. I have also attached those for other members of our team.](#)
- 3) Information on tents: How many tents will be set up during the events? What are the sizes of the tents? A tent permit(s) from the Town's Building Dept. will be required if the tent is larger than 120 square feet. There may be a fee involved with the permit(s). [We will have two tents. A Zelus tent that is 10x10 \(100 square feet\) and Ribpublic BBQ will have a 20x10 \(200 square feet\). These are not permanent tents, they go up and down very easily. I have not been asked for a permit for these tents before. If Cousin's Maine Lobster receives permission to serve they bring their food truck which they would park as near as possible in the library parking lot.](#)
- 4) What will you intend to do in the case of inclement weather? Will the event be cancelled? [If the weather is really bad we would cancel it. Otherwise we might seek to get additional tents. Outdoor popups/beer gardens tend not to be popular in the rain. We cannot move to Saturday because we have a popup in Medfield on that day.](#)
- 5) A completed Entertainment Application (attached). There may be fees involved with entertainment - both for electric use and the license itself. (The Police Department is requiring that you refrain from any music until after the Federated Church service and coalition after the service is over.) [Do you know what time the service is over? We would only want a license for when we have a band organized.](#)

Please note the following:

- The DPW is requiring that any tents used would be fully disassembled and removed from the area each week, including tent stakes being removed so that the grounds crew can have full access to mowing and leaf blowing throughout the fall. This would also be the case for tables/chairs, etc. [Understood and is no problem.](#)
- The Police Department is requiring the area to be roped off as stated in your request. [Understood and no problem.](#)
- As you will note on the Town Hill Usage Policy, it may be possible for the DPW to remove the trash from the site for a fee. We have requested information from the DPW as to the process and fee and will forward that information to you as soon as it is obtained. [Yes, please let me know the process and fee. If the fee is large we will just remove and take with us.](#)
- Parking at the Norfolk Town Library may be available and required. [It seemed like there is plenty of parking in the area either way.](#)

Please do not hesitate to contact me with any questions you may have.

Have a great evening.

Cheers,

Geoff.

Geoff Pedder, Founder and Managing Partner

[geoff@zelusbeer.com](mailto:geoff@zelusbeer.com)

617-510-0260

--

***Nancy A. Langlois***

Executive Assistant

Town of Norfolk

One Liberty Lane

Norfolk, MA 02056

(508) 440-2801

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***Nancy A. Langlois***

Executive Assistant

Town of Norfolk

One Liberty Lane

Norfolk, MA 02056

(508) 440-2801

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**8 attachments**



**Cam TIPS Back.JPG**  
75K



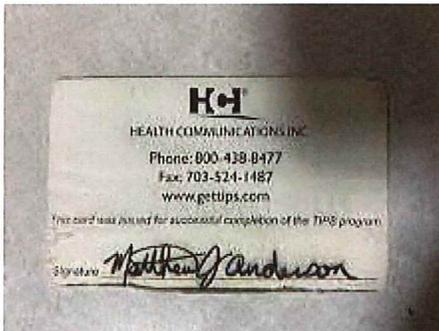
Cam TIPS Front.JPG  
86K



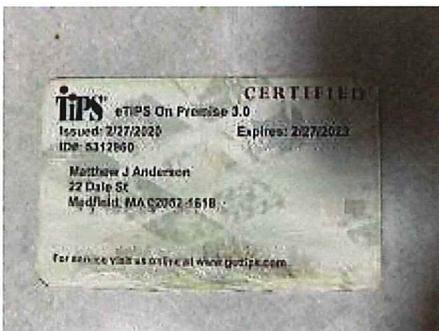
Chris Dyson TIPS.png  
720K



GP Alcohol Intervention Card.jpg  
781K



Matt Anderson TIPS Back.jpg  
70K



Matt Anderson TIPS Front.jpg  
73K

 License\_Certificate\_ABCC\_20191212\_041841.pdf  
171K

 Norfolk Entertainment License.pdf  
569K



Commonwealth of Massachusetts  
Office of the State Treasurer  
Alcoholic Beverages Control Commission

**FARMER-BREWERY LICENSE**

**M.G.L. c. 138, § 19C**

This Farmer-Brewery License authorizes the following licensee to manufacture and brew, keep and expose for sale and to sell in kegs, casks, barrels, bottles or other containers malt containing not more than twelve percent alcohol by weight:

**Zelus Beer Company, LLC**

1 Green Street 2  
MEDFIELD, MA 02052

Approved by the Alcoholic Beverages Control Commission on December 10, 2019

Jean Lorizio, Chairman

Crystal Matthews, Commissioner

License Number: **FB-LIC-000159**  
Record Number: **2019-000110-FB-REN**  
Capacity: **5K Barrels or Less**

**THIS LICENSE WILL EXPIRE DECEMBER 31, 2020 UNLESS REVOKED OR CANCELLED DURING THIS PERIOD**

THIS LICENSE MUST BE DISPLAYED ON THE PREMISES IN A CONSPICUOUS PLACE WHERE IT CAN BE EASILY READ

**Town of Norfolk**  
**Application for Entertainment License**

Application for Entertainment License in accordance with Massachusetts General Laws, Chapter 140, Section 183A as amended by Chapter 694 of 1981.

Name of Establishment: ZELUS OUTDOOR POPUP

Address: TOWN HILL, TOWN OF NORFOLK, MA 02056

Type of Entertainment: LIVE MUSIC

Please check the appropriate boxes:

- |             |                                |  |  |
|-------------|--------------------------------|--|--|
| 1. Dancing: | By Patrons _____               | By Entertainers _____  | No Dancing _____                               |
| 2. Music:   | Recorded _____                 | Juke Box _____   | Live <input checked="" type="checkbox"/> _____ |
|             | Number of Musicians <u>1-2</u> | Amplification System <input checked="" type="checkbox"/> _____ | No Music _____                                 |
| 3. Shows:   | Theatre _____                  | Movies _____   | Floor Show _____                               |
|             | Light Show _____               | No Show _____  |  |
| 4. Other:   | Video Games _____              | Pool/Billiard Tables _____ (Please indicate quantity)          |  |

Please Describe: LOCAL ARTISTS PLAYING LIVE MUSIC - KENDO ACOUSTIC  
(FROM NORFOLK) AND GREG ROY. ONLY MINIMAL  
AMPLIFICATION NEEDED - JUST SO THEY ARE HEARD.

I certify that this application contains a true description of the entertainment provided by this establishment and that I have complied with M.G.L. Chapter 140, Section 183A, Paragraph 3, by stating whether as part of the concert, dance exhibition, cabaret, and public show any person will be permitted to appear on the premises in any manner or attire as to expose to public view any portion of the pubic area, anus, or genitals, or any simulation thereof, or whether any female person will be permitted to appear on the premises in any manner or attire as to expose to public view any portion of the breast below the top of the areola, or any simulation thereof.

GEORFFNEY PEODEN  
Please print name

[Signature]  
Signature of Owner, Manager, or Authorized Agent

9/10/2020  
Date

The Licensing Board reserves the right to request the applicant to furnish additional information in accordance with Chapter 694 of the Acts of 1981.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date

Board of Selectmen



Town of Norfolk

Nancy Langlois &lt;nlanglois@norfolk.ma.us&gt;

---

**Re: Application for a Zelus Beer and BBQ Outdoor Popup in Norfolk**

1 message

**Nancy Langlois** <nlanglois@norfolk.ma.us>

Thu, Sep 10, 2020 at 2:03 PM

To: Geoffrey Pedder &lt;geoff@zelusbeer.com&gt;

Cc: Blythe Robinson &lt;brobins@norfolk.ma.us&gt;

Hi Geoff,

Thank you for providing the additional information as requested. We have placed your request on the Select Board's September 15, 2020 meeting agenda. As mentioned in our phone conversation this morning, it would be advisable for you to attend the meeting (via Zoom online video conferencing) to answer any questions the Board may have regarding the event. Attached is a copy of the meeting agenda which contains a Zoom meeting link. There is a hearing dealing with another matter at 7:00 p.m. Therefore, if you would like to provide a cell phone number, we can text you a few minutes prior to the time your matter will be heard.

Please note the following:

- As previously stated, a tent permit will be required for any tent that is over 120 square feet. The application can be obtained on the Town's Building Department's webpage: <http://www.norfolk.ma.us/departments/building/online-permit-applications-building-electric-plumbing-gas-sheet-metal.htm> If you have any questions regarding the process, please contact the Building Department at 508-528-5088.

- As of this time, the Board of Health has not received applications for vendor permits for the events. Please contact Betsy Fijol at [bfijol@norfolk.ma.us](mailto:bfijol@norfolk.ma.us) for further information on the process. I believe she forwarded the appropriate application to you on September 3rd.

-The fee for an entertainment license for live music on Sundays is \$100.00. This will be a one time fee for all events requested at this time.

-In order for the DPW to pick up trash for the events, it would require an on call employee to come in at the conclusion of the event each Sunday. The DPW would charge a \$200 fee, and \$2.50 per bag, to cover the cost of disposal for each individual event. No loose items and all trash would need to be bagged and left in a designated area close to the parking lot for pickup by DPW personnel to limit labor costs. Pickup would have to be Sunday evening to avoid the risk of unpleasant odors developing and more importantly, possible animal interaction if left out until the following morning.

If you have any further questions, please do not hesitate to contact this office at 508-440-2855.

Regards,

Nancy Langlois

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On Thu, Sep 10, 2020 at 11:38 AM Geoffrey Pedder <[geoff@zelusbeer.com](mailto:geoff@zelusbeer.com)> wrote:

Hi Nancy,

I have read the Town Usage Policy and everything sounds totally reasonable, and the \$100 security deposit is fine. We do not need to use the second location, and only intend to use the Town Hill at this time. If something changes in that regard I will let you know. We will only need electricity if we receive permission to have music, with amplification, and on those days we have music. I have attached the entertainment license application – what is the fee? For your additional questions/points I have responded in blue below.

## ARTICLE XIII: ANIMAL REGULATIONS

### SECTION 1. Purpose

Pursuant to the authority set forth in G.L. c. 140, §§136A – 174F, inclusive, and any other relevant statutes and regulations issued pursuant thereto, this section is adopted by the Town for the control and regulation of dogs and other animals within the Town.

### SECTION 2. Definitions

The definitions of words and terms set forth in G.L. c. 140, §136A are incorporated into Article XIII and shall be applicable herein.

### SECTION 3. Administration

- A. The Select Board shall annually appoint an Animal Control Officer upon recommendation of the Town Administrator who shall be responsible for the enforcement of this bylaw and the General laws relating to the regulation of animals.
- B. For purposes of this bylaw and G.L. c. 140, §157, the Select Board shall be the Hearing Authority.

### SECTION 4. Registration and License Requirements for Dogs

- A. In accordance with G.L. c. 140, §137, any owner or keeper of a dog six months of age or older shall, beginning January 1 cause the dog to be registered, numbered, described, and licensed with the Town Clerk in accordance with the laws of the Commonwealth of Massachusetts. The license shall be valid until the following December 31st.
- B. As a prerequisite to such licensing, the owner or keeper of the dog must present evidence to the Town Clerk that the dog, if six months of age or older, shall have a current vaccination against rabies, and proof of spaying or neutering, if applicable. The fee for such a license shall be as established in Section 4.c of this bylaw.
  - a. Males and Females \$ 15.00
  - Neutered Males and Spayed Females \$ 10.00
  - Dog owners over the age of 70: No Fee
  - Service Animals as defined by the American with Disabilities Act or regulations promulgated thereunder: No Fee
  - Dangerous Dog Relicensing Fee \$ 30.00
  - Personal Kennels (subject to inspections): \$100.00
  - Commercial Kennels (subject to inspections): \$250.00
- C. Should any owner of a dog previously licensed in the Town of Norfolk, fail to re-license their dog by March 31, the owner shall pay a late fee of \$50.00 after March 31<sup>st</sup>.
  - a. The owner or keeper of a licensed dog shall cause it to wear around its neck or body a collar or harness to which shall be securely attached: a) the tag evidencing current rabies inoculation; and b) The license issued by the Town Clerk of Norfolk for the current license period.

## **SECTION 5. Control of Animals**

- A. Nuisance or Dangerous Behavior. No owner or keeper of any dog shall at any time permit the dog to become or remain a nuisance dog or a dangerous dog as those terms are defined in G.L. c. 140, §§136A and 157.
- B. Leash Law. Any dog shall be deemed to be at large when it is off the premises of its owner or keeper and not under the care and control of a person demonstrating the ability to control the dog. A dog under voice command or leashed shall be considered in the care and control of a person only if said person is competent to prevent the dog from becoming nuisance or a threat to public safety.
- C. Dog excretions on either public or private property must be removed and disposed of immediately by the owner(s) or keeper(s) of the dog or the person(s) under whose care and control the owners have placed the dog.
- D. Dogs on Town Property. Any dog, while on any property owned or controlled by the Town of Norfolk, shall remain under the control of its owner or keeper in the manner prescribed by the regulations promulgated by the Board, Committee or officer having control of said property.
- E. Service Animals. Subsections b) through d) shall not apply to: service animals as defined by the Americans with Disabilities Act or regulations promulgated thereunder, dogs belonging to a law enforcement agency or formally trained as search and rescue animals, provided that such dogs are acting in the line of duty; or, with permission of the land owner for the purpose of training dogs or hunting.

## **SECTION 6. Animal Control Officer**

- A. Complaint Investigation. The Animal Control Officer shall investigate all written complaints arising within the Town pertaining to violations of Article XIII and G.L. c. 140, §§136A – 174F and any relevant state or local regulations.
- B. Issuance of Temporary Restraint Orders. The Animal Control Officer may issue a temporary Restraint Order to the owner or keeper of a dog that is alleged to be a nuisance or dangerous dog and is awaiting a decision under Article XIII.5.a. A Temporary Restraint Order shall be in force for no more than thirty (30) days unless the Animal Control Officer renews it in writing for a subsequent thirty (30) day period. The Animal Control Officer may rescind or stop renewing the order when, in the Animal Control Officer's judgment, restraint is no longer required. The Animal Control Officer's order shall expire upon receipt of a decision from the Select Board on the nuisance or dangerous dog hearing.
- C. Impoundment by Animal Control Officer: It shall be the duty of the Animal Control Officer to apprehend any dog found at large in any street or public place within the Town of Norfolk in violation of any of the provisions of this bylaw and to impound such a dog. The Animal Control Officer upon receiving any such dog shall make a complete registry entering the breed color and sex of such dog and whether licensed. The owner of the dog, if known, shall be notified as soon as possible that the dog has been impounded. The owner of any dog so impounded may claim such dog upon reimbursement to the Town the expenses for maintaining said dog while impounded in addition to the fines established in Section H. of the bylaw. Prior to its release, any dog that is at least six (6)

months of age must have proof of current rabies inoculation shall have a proper license form the Town Clerk and be properly tagged.

- D. Disposition of Unclaimed Dogs and Cats: Any dog or cat whose owner or keeper fails to claim said dog or cat within seven (7) days from the day of impounding shall be subject to the provisions set forth in Chapter 140, Section 151A of the General Laws of the Commonwealth of Massachusetts and any amendment thereto.
- E. Record Keeping. The Animal Control Officer shall keep accurate, detailed records of the confinement and disposition of all dogs held in custody, all bite cases recorded, and the results of investigations. The Animal Control Officer shall maintain a log of all communications received regarding dogs and submit a monthly report summarizing the log to the Town Administrator.

### **SECTION 7. Responsibility of Animal Owners**

No owner or person having the care of any sheep, goats, swine, oxen, cows, horses or other grazing animals or fowl, shall permit or suffer the same to go at large or to graze on any street, way, common, square or other public place within the Town; nor permit any such animal to go upon any sidewalk therein except for the purpose of crossing the same. (3/16/36)

### **SECTION 8. Disturbing Noises from Animals**

No person shall keep any bird, fowl, or other animal which by barks, howls or other noises, disturbs the peace and quietness of any resident of the Town. (3/16/36)

### **SECTION 9. Violations and Penalties**

- A. The failure of the owner or keeper of any dog or pet to comply with this bylaw or with any order of the Animal Control Officer or the Select Board shall be a violation of this bylaw.
- B. The failure of the owner or keeper of any dog to comply with the registration and license requirements provided in this Article 47 and in G.L. c. 140, §§ 136A-174F shall be in violation of this bylaw.
- C. Allowing a Dog to Roam at Large:
  - a. In addition to the remedy of impoundment as set forth therein, Section 5B of this Bylaw may be enforced by the Animal Control Officer, or any police officer of the Town, through any means available in law or equity, including but not limited to criminal indictment in accordance with G.L. c.40, §21, and noncriminal disposition in accordance with G.L. c. 40, § 21D and the Town General Bylaws Article XIV, "Non-Criminal Disposition, as may be amended from time to time. When enforced in accordance with G.L. c. 40, § 21, the maximum penalty shall be \$300 and each day a violation exists shall constitute a separate violation.
  - b. When enforced through non-criminal disposition, the penalties shall be as follows:
    - i. First Offense: Warning
    - ii. Second Offense: \$50 Fine
    - iii. Third and subsequent Offense: \$100 Fine

- D. Violation of an Order to Restrain Nuisance or Dangerous Dog:
- a. In addition to the remedies set forth therein, Section 5A of this Bylaw may be enforced by the Animal Control Officer, or any police officer of the Town, through any means available in law or equity, including but not limited to G.L. c.140, §157A, as may be amended from time to time, noncriminal disposition in accordance with G.L. c. 40, § 21D and the Town General Bylaws Article XIV, "Non-Criminal Disposition, as may be amended from time to time. When enforced in accordance with G.L. c.140, §157A, an owner or keeper of a dog who fails to comply with an order of the Select Board or district court shall be punished, for a first offense, by a fine of not more than \$500 or imprisonment for not more than 60 days in a jail or house of correction, or both, and for a second or subsequent offense by a fine of not more than \$1,000 or imprisonment for not more than 90 days in jail or house of corrections.
  - b. When enforced through non-criminal disposition, the penalties shall be as follows:
    - i. First Offense: \$50 Fine
    - ii. Second Offense: \$100 Fine
    - iii. Third and subsequent Offense: \$200 Fine
  - c. The Animal Control Officer or any Town of Norfolk police officer shall seize and impound any vicious dog found outside of its enclosure in violation of this Bylaw or any order issued by the Animal Control Officer, the Select Board or the Court.
- E. If the Animal Control Officer confines a dog and the dog owner or keeper does not pay all fees directly to the kennel or veterinary clinic, then the dog's owner or keeper shall be required to reimburse the Town for any expenses incurred in boarding that dog. If the dog has not been licensed, the owner or keeper shall obtain a license and pay any applicable fine before the dog can be released.
- F. Violation of Nuisance Dog or Dangerous Dog Order. An owner or keeper of a dog who fails to comply with an order of the Select Board or district court issued pursuant to G.L. c. 140, § 157A shall be punished as provided in that statute;

**Draft Special Town Meeting Article List - November 17, 2020**

9/10/2020

<u>Article #</u>	<u>Topic</u>	<u>Proponent</u>	<u>Dollar Amount</u>	<u>Other Sources</u>
1	Budget Transfers	SB		
2	Pay unpaid bills from prior year	SB		
3	State Transportation Ride share funds	SB		
4	Capital Expenditures from Borrowing	SB	-	
5	Capital Expenditures other than from borrowing	SB		
6	Water Enterprise fund capital	SB		
7	CPC - Acquisition of Open Space - Pond Street	CPC		
8	Hear reports from Town Committees			
9	Amend General Bylaws - Animal Control	SB		
10	Various Street Acceptances	BOS/PB		
	- Silver Fox Run, Meetinghouse, Liberty Lane			



09/01/2020 12:15  
9730rrov

Town of Norfolk - LIVE  
2020 WARRANT SCHEDULES PAYABLE WARRANT REPORT

P 1  
apwarrnt

DATE: 05/01/2020 WARRANT: 09921 AMOUNT: \$ 847,786.81

\$	15,049.24
\$	1,863.92
\$	30,309.75
\$	6,172.90
\$	414,795.38
\$	328,097.40
\$	39,568.18
\$	4,434.03
\$	6,439.21
\$	1,056.80
\$	847,786.81

TO THE TREASURER:

PAY TO EACH OF THE PERSONS NAMED IN THE ABOVE WARRANT, ACCOMPANYING SCHEDULES OF BILLS PAYABLE THE SUMS SET AGAINST THEIR RESPECTIVE NAMES, AMOUNTING IN THE AGGREGATE SHOWN ABOVE, AND CHARGE THE SAME TO THE APPROPRIATIONS OR ACCOUNT INDICATED.

APPROVED

  
FINANCE DIR TODD LINDMARK

  
SELECTBOARD KEVIN KALKUT

SELECTBOARD ANITA MECKLENBURG

SELECTBOARD CAROLYN C. VAN TINE

\*\*\*\*\*  
SCHOOL BILLS

SCHOOL COMMITTEE  
THOMAS DOYLE

SCHOOL COMMITTEE  
SARA WARD

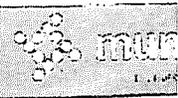
SCHOOL COMMITTEE  
JENNIFER WYNN

SCHOOL COMMITTEE  
MEDORA CHAMPAGNE

SCHOOL COMMITTEE  
SHANNON MENESES

09/03/2020 17:47  
9730bboc

Town of Norfolk - LIVE  
ACCOUNTS PAYABLE WARRANT REPORT

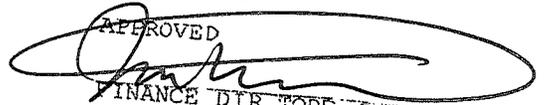


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lapw

DATE: 09/08/2020 WARRANT: 10VS21 AMOUNT: \$ 82,240.39

TO THE TREASURER:

PAY TO EACH OF THE PERSONS NAMED IN THE ABOVE WARRANT, ACCOMPANYING SCHEDULES OF  
BILLS PAYABLE THE SUMS SET AGAINST THEIR RESPECTIVE NAMES, AMOUNTING IN THE  
AGGREGATE SHOWN ABOVE, AND CHARGE THE SAME TO THE APPROPRIATIONS OR ACCOUNT  
INDICATED.

APPROVED  
  
FINANCE DIR TODD L LINDMARK

  
SELECTBOARD KEVIN KALKUT

SELECTBOARD ANITA MECKLEBURG

SELECTBOARD CAROLYN C. VAN TINE

\*\*\*\*\*  
SCHOOL BILLS

SCHOOL COMMITTEE  
THOMAS DOYLE

SCHOOL COMMITTEE  
SARA WARD

SCHOOL COMMITTEE  
JENNIFER WYNN

  
SCHOOL COMMITTEE  
MEDORA CHAMPAGNE

SCHOOL COMMITTEE  
SHANNON MENESES

09/08/2020 13:07  
9730rrov

Town of Norfolk - LIVE  
PRELIMINARY ACCOUNTS PAYABLE WARRANT REPORT

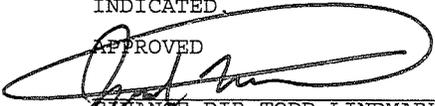
P 1  
apwarrnt

DATE: 09/08/2020 WARRANT: 10V21 AMOUNT: \$ 101,728.43

TO THE TREASURER:

PAY TO EACH OF THE PERSONS NAMED IN THE ABOVE WARRANT, ACCOMPANYING SCHEDULES OF  
BILLS PAYABLE THE SUMS SET AGAINST THEIR RESPECTIVE NAMES, AMOUNTING IN THE  
AGGREGATE SHOWN ABOVE, AND CHARGE THE SAME TO THE APPROPRIATIONS OR ACCOUNT  
INDICATED.

APPROVED

  
FINANCE DIR TODD LINDMARK

  
SELECTBOARD KEVIN KALKUT

SELECTBOARD ANITA MECKLENBURG

SELECTBOARD CAROLYN C. VAN TINE

\*\*\*\*\*  
SCHOOL BILLS

SCHOOL COMMITTEE  
THOMAS DOYLE

SCHOOL COMMITTEE  
SARA WARD

SCHOOL COMMITTEE  
JENNIFER WYNN

SCHOOL COMMITTEE  
MEDORA CHAMPAGNE

SCHOOL COMMITTEE  
SHANNON MENESES

**DRAFT**

**Norfolk Select Board's Open Session Meeting Minutes  
August 18, 2020**

**This meeting was held as a Remote Access Zoom Virtual Meeting.**

Members Present: Kevin Kalkut; CiCi Van Tine; Anita Mecklenburg. Members Not Present: None. Also Present: Blythe Robinson, Town Administrator; Judith Lizardi, Executive Assistant.

Mr. Kalkut called the Remote Access Zoom Virtual Meeting to order at 6:20 p.m.

**Executive Session**

**A. Executive session under M.G.L. c.30A, §21(a)(3) to obtain advice of counsel and discuss strategy with respect to potential litigation regarding the construction of the Police Station, insofar as an open meeting may have a detrimental effect on the litigation position of the public body**

At 6:20 p.m. a motion was made by Mr. Kalkut to move that the Board enter into executive session under M.G.L. c.30A, §21(a)(3) to obtain advice of counsel and discuss strategy with respect to potential litigation regarding the construction of the Police Station, insofar as an open meeting may have a detrimental effect on the litigation position of the public body and invite Town Counsel Peter Mello, Blythe Robinson and Judith Lizardi to participate. The motion was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

At 7:05 p.m., a motion was made by Mr. Kalkut that the Board vote to conclude the executive session for the purpose of entering into a second executive session. The motion was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

**B. Executive Session under M.G.L. c.30A, §21(a)(7) to review and approve Executive Session Minutes**

At 7:05 p.m. a motion was made by Mr. Kalkut to move that the Board enter into executive session under M.G.L. c.30A, §21(A)(7) to comply with the general laws for the purpose of review and approval of Executive Session minutes and whether those minutes should be released in open session and invite Blythe Robinson and Judith Lizardi to participate. The motion was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

At 7:10 p.m. a motion was made by Mr. Kalkut to conclude the executive session and enter into open session for the purpose of conducting the open session portion of the meeting. The motion was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

At 7:16 p.m. the open session meeting commenced.

Chair Kalkut noted the Massachusetts State of Emergency and the associated state legislation allowing towns to hold remote access virtual meetings during the COVID-19 pandemic crisis. He reviewed that

in accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the August 18, 2020, 6:15 p.m. public meeting of the Norfolk Select Board shall be physically closed to the public to avoid group congregation. Alternative public access to this meeting shall be done via Zoom online video conferencing. This application will allow users to view the meeting and provide comments during allocated windows as outlined in the Board's Public Comment Policy. He noted the Zoom Meeting link and the Zoom Meeting call-in number are provided on the agenda. He stated that all supporting materials have been published to the website.

Ms. Robinson reviewed the agenda.

#### COVID-19 Updates

Ms. Robinson stated Norfolk has had a total of 38 cases of COVID-19; there are no active cases. She stated the school districts have made plans for the opening of schools in the fall. Norfolk schools will open on September 16<sup>th</sup> with a hybrid approach; KP schools will begin with a remote approach and possibly reopen in-person learning later in the year. The schools are reviewing their reopening expenses to manage both FEMA and CARES funding requests.

#### Public Comment

Ms. Jen Wynn, 3 Hemlock Lane, stated support for the upcoming agenda discussion item regarding website posting of Select Board correspondence. She stated the Town should be fully transparent and all email correspondence received by the Select Board should be posted for citizens to view. She noted that this form of transparency already exists in the form of the Freedom of Information Act (FOIA). It is her understanding that many hours are spent by Town employees working to provide these emails under FOIA requests; it would be less costly to have the information posted.

#### **Action Items**

##### Please consider making appointments to various Town Boards & Committees

Ms. Robinson stated that there are several appointments recommended that the Board take up including: Community Preservation Committee (CPC), Tree Warden, and Municipal Hearing Officer. The CPC had not had a chance to meet when the Board took up appointments earlier this summer. Current chair Cyndi Andrade and member Peter Diamond would both like to be reappointed. With regard to Tree Warden, she recommended that DPW Director Blair Crane be appointed to this role. It was held by Mr. McGhee during his tenure, but had not been identified on a recent list as his last appointment was made in 2016, and it was not delineated in the DPW Director job description. Mr. Crane held this role in his position as DPW Director in Cheshire, and has the requisite training required. Included in the Select Board's meeting packet is an email from Mr. Crane about his training and experience. The Municipal Hearing Officer is a position mandated by the Massachusetts Fire Safety Act of 2004. Specifically, the Legislature enacted M.G.L. c. 148A which allowed for the issuance of citations for certain violations of the State Building and Fire Code by state and local code enforcement officers. In order to participate in the citation process, cities/towns must appoint a certified hearings officer. Citations written by local code enforcement officers, which are appealed, are heard before a municipal hearings officer. This hearings officer is appointed by their municipality to conduct such hearings. The role has been filled in recent years by Town Clerk Carol Greene; however, she does not wish to be reappointed. She noted that in the years Ms. Greene held this role, no hearings were required. Mr. Scott Bragdon recently completed the State training for the position and is willing to be appointed. She noted there is no compensation for these positions.

A motion was made by Mr. Kalkut that the Board vote to make the following appointments:

- Peter Diamond as the Select Board's at large appointment to the Community Preservation Committee for a three-year term ending June 30, 2023
- Cynthia Andrade as the Select Board's Precinct 3 appointment to the Community Preservation Committee for a three-year term ending June 30, 2023
- Blair Crane to the position of Tree Warden for a one-year term ending June 30, 2021
- Scott Bragdon to the position of Municipal Hearing Officer for a one-year term ending on June 30, 2021.

It was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

Please consider approval of the Board's goals and objectives for FY21

Ms. Robinson stated that at the July 14, 2020, meeting the Select Board discussed its goals and objectives for FY21. Included in the Select Board's meeting packet is an updated set of goals drafted by Chair Kalkut for the Board to consider, along with the spreadsheet that is used to identify progress on these and other projects throughout the year. She noted that it would be helpful for the Board to decide who would take point on these so that staff can work with each member to support moving these initiatives forward.

Mr. Kalkut confirmed Select Board members would let Ms. Robinson know who will be leading each initiative.

A motion was made by Mr. Kalkut that the Board adopt its goals and objectives for fiscal year 2021 as outlined in the packet. It was seconded by Ms. Mecklenburg. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

Please consider approval of the Deputy Police Chief's Contract

Ms. Robinson stated that included in the Select Board's meeting packet is a renewal contract for Deputy Police Chief Jon Carroll. Mr. Carroll has been with the Town for about 35 years, and since 2013 has served as Deputy Chief during which he has had a contract with the Town. His contract was up for renewal in June; however, it was not brought before the Board as a myriad of other issues were being dealt with. This contract is proposed to be for just over two years which will coincide with Mr. Carroll's retirement when he turns 65 and cannot by law serve after that point. This contract is very similar to the ones the Town has had with him since becoming Deputy Chief. The total value of the contract in FY21 is \$185,675 when the various benefits that are typical in police departments are calculated in. As the Town is in the midst of the compensation plan update for all Town employees, the consultant was asked for comparable salaries for this position. The assessment is that the base compensation is high at \$143,000; however, when the Deputy Chief's long tenure is factored in that explains the difference. It is expected that when the position is recruited for in two years the base pay will be lower. She pointed out two changes from prior years. First, Mr. Carroll has agreed to the step increase of 2.5 percent that other non-union employees received this year instead of the contractual increase for the police union of 4 percent, and in the second year of the contract to receive no more than other non-union employees. Also, there is a new section G (General Provisions) that has not been in past contracts that is believed appropriate for an agreement such as this which has been added. Mr. Carroll has executed the contract already. She recommended approval of this contract.

Mr. Kalkut stated that he had the opportunity to meet with Police Chief Stone and Deputy Police Chief Carroll regarding a transition plan for the police department due to their future retirements. Ms.

Mecklenburg stated that although the salary numbers seem high, she does not want to disregard the history that Mr. Carroll has had with the Town. Ms. Van Tine confirmed the total value of the contract for FY21 which included the base pay and the various benefits that are typical in police departments calculated in. She confirmed there were no other benefits that were not mentioned. Ms. Robinson confirmed Mr. Carroll is not eligible for overtime or extra details. Ms. Van Tine confirmed the time-off schedule as listed in the proposed contract. She said the Town can decide to move from union to non-union when filling this position in the future. Ms. Robinson stated that when moving forward with new hires after the retirements, the Town will see a difference in the salary range for this job.

A motion was made by Mr. Kalkut that the Board ratify a contract with Jon Carroll as Deputy Police Chief effective July 1, 2020. It was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

Please consider opening a warrant for a Special Town Meeting on November 17, 2020

Ms. Robinson stated that although it seems like the annual meeting was just concluded, it is not too soon to start planning the fall special town meeting. Included in the Select Board's meeting packet is a calendar of dates that would result in a meeting on Tuesday, November 17, 2020, which is the same week that the meeting was held last fall. For now, both the Middle School and KP High School have been reserved for the meeting. When the State passed changes in the law relative to municipal governance in June, they allowed for meetings to be held outside the geographic limits of the Town, so as the time gets closer the location can be determined.

Mr. Kalkut stated he does not see a downside to opening the fall special town meeting warrant.

A motion was made by Mr. Kalkut that the Board vote to open a warrant for a special town meeting to be held on November 17, 2020, and close the warrant for this meeting on September 17, 2020. It was seconded by Ms. Mecklenburg. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

Please consider authorizing the Chair to amend a contract for SERSG Water & Sewer Chemicals to Borden & Remington Co., Fall River, for Fiscal Year 2021

Ms. Robinson stated that when the contract with this company for water and sewer chemicals was approved in May for FY21, it included a price for the purchase of potassium hydroxide which is being switched to for PH adjustment and corrosion control for water; however, the Town's conversion to it has not been completed. Until that point, the Town needs to continue to buy sodium hydroxide, which is why the contract with Borden & Remington needs to be amended to add this chemical. Borden & Remington was the low bidder for this item when it was bid out in the spring.

Ms. Van Tine asked if the chemical would be needed for the remainder of the year. Ms. Robinson stated it would be needed until the conversion is complete.

A motion was made by Mr. Kalkut that the Board vote to authorize the Chair to amend a contract for SERSG Water & Sewer Chemicals with Borden & Remington Co., Fall River, for Fiscal Year 2021 to include sodium hydroxide. It was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

Please consider approval of a "Not a Through Street" Sign for Overlea Road

Ms. Robinson stated that included in the Select Board's meeting packet is an email from Overlea Road resident Ms. Gail Grivois requesting that several actions be taken regarding Overlea Road. Those include installation of a "no through street sign," installation of sign at the end of the street to identify Town Conservation Land, and improvements to the intersection of Overlea Road and Rockwood Road to improve sight distance at the intersection. Staff has reviewed these requests with DPW, the Police Department, and Conservation and recommends that the "no through street" sign be installed, and that some work be done to clear brush on the right side of Rockwood Road and Overlea Road to improve sight distances. The sign would cost about \$150 which would come out of the DPW budget. Ms. Janet DeLonga, the Town's Conservation Agent, has reviewed the deed and plans for the conservation area at the end of the street. It is intended to be a turtle habitat; thus, the signs that were originally placed there were to tell people not to use it for recreation. She is working with DPW to have the missing sign replaced. With regard to the mirror that is requested, Ms. Robinson referenced why these are no longer installed in Town.

Mr. Kalkut noted that he lived on Overlea Road for five years before he moved; this action makes a lot of sense.

A motion was made by Mr. Kalkut that the Board vote to approve a "no through street" sign to be installed on Overlea Road. It was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

### **Discussion Items**

#### Please discuss website posting of board correspondence

Ms. Robinson stated that at a previous Select Board meeting, the Board discussed starting a process by which email correspondence received by the Select Board could be posted to the website. As the focus was put on reacting to the COVID pandemic, this item did not move forward. Following up with IT, a page on the Town's website can be created under the Select Board's page for correspondence. From that, subpages can be developed. It is suggested that they be by topic areas the Board determines such as "general," "land use," "finances," etc. A sample page has been created by IT which is included in the Select Board's meeting packet for the Board to discuss. If the Select Board likes this format, the topic areas and the mechanics of how the emails will be received and posted to the site will need to be determined.

Mr. Kalkut confirmed that the Select Board agreed at their March 25, 2020, meeting that this was the direction the Board wanted to move to allow the community to be aware of the types of questions and comments the Select Board receives. He stated that the hope is to open up a level of transparency and alleviate strain on the Records Access Officer. Since March 25<sup>th</sup>, some emails received by the Select Board have been reviewed with Town Counsel who discussed the implications about posting all emails regardless of subject; for example, some matters may be in litigation, and there are possible privacy issues in posting the name of the email sender. Ms. Wynn stated that it would be great if all emails could be posted, but she understands the concerns identified by Town Counsel. Mr. Kalkut stated that after review, five types of emails were identified. It was considered that if citizens knew their name was going to be posted with the email, it may deter some citizens from submitting a legitimate question or concern. Therefore, it was suggested that these first five emails would be posted with the sender's name redacted.

Ms. Mecklenburg stated that she likes transparency and indicated concern that if the emails are posted with anonymity for the sender, people may choose to send nasty or negative emails. As well, she

would like to protect people who have legitimate concerns and would not like their names identified. She does not want to make an initiative that would result in less, rather than more, citizen participation. She stated that overall, she supported Mr. Kalkut's position. Mr. Kalkut confirmed that Ms. Mecklenburg would like the email sender's first name posted with the email.

Ms. Van Tine stated that she agreed that some people can be emboldened by anonymity. However, on social media postings, some people put both their first and last names. She would like citizens to see the kinds of questions that people in the community have; this can be a place to read and gather information. She suggested identifying the sender's first name and last initial with each email posting, or ask the email sender if they would like their first name and last name identified with the email posting. She noted that if someone is relentlessly engaged in name calling, the Select Board should not be required to give them anonymity. As well, the type of person involved in name calling may be emboldened by their name being attached to the email. She stated that she does not like the idea of anonymity, but does not like the idea that people will feel outed for asking a question. She suggested beginning this initiative by including the email sender's first name and last initial with the posting, and in the future, ask the email sender if both their first and last names can be posted.

Mr. Kalkut summarized that the choice is between taking Town Counsel's advice and omit posting the email sender's name with the email, or post these five emails anonymously with a statement that in the future, for constructive comments, the email sender will be asked if they would like their name associated with the comment. If the nature of the correspondence is nasty and/or insulting, the email sender does not get the choice to have their name removed. He stated that when qualifying something as negative, it is based on the way or manner in which the information is communicated. This may reduce negative comments and reinforce positive messages. He confirmed that for the five emails noted tonight, those email senders will receive anonymity. He reiterated that the purpose of posting the emails to the Town website is so citizens can read what other people in the community have as questions, comments, and issues. Ms. Mecklenburg and Ms. Van Tine agreed.

Ms. Susan Jacobson, 46 Needham Street, stated that while she is mindful of the anonymous piece of this, she has been a target of emails that are inappropriate and not constructive; she thinks it is important for Town employees who are targets of these emails that the email sender be identified. She stated that she does not believe the public knows about the types of emails that have been received by Town employees and Select Board members. She agrees that identifying the names of the email senders could give fuel to the fire. However, this initiative shows support for the Select Board, Town Administrator, and Town employees who have been the target of these types of emails. Ms. Wynn said that anyone can submit a FOIA request. Therefore, to be fair, whatever a person can have access to via a FOIA request should be posted on the Town website. She stated that Town employees have quit regarding having to look for and provide emails in response to FOIA requests; if someone sends an email, it should be posted.

Ms. Mecklenburg suggested that since this is the first time that emails sent to Select Board members will be posted to the Town's website, the senders of these first five emails should be contacted to let them know this is the new policy. Ms. Van Tine agreed. Mr. Robinson suggested adding information to the What's New section of the Town's homepage to alert citizens to this new area for posting emails. Mr. Kalkut agreed. He confirmed that he would reach out to the senders of the first five emails to ask their preference for posting their names.

#### Town Administrator Updates

Ms. Robinson stated that the DPW Facebook page is active with postings of the Town's paving plans. Paving will start on Main Street on August 21<sup>st</sup> and is scheduled to wrap up on August 27<sup>th</sup>; citizens can review the detour routes. The bids on the Holbrook Street Well will be opened on Thursday. The MECC grant to add two new communities was received earlier this month. The \$95,000 budgeted for the MECC this year will not need to be spent; therefore, the budget can be reduced or those funds can be reallocated at fall Special Town Meeting. She noted that at the September 1<sup>st</sup> Select Board meeting, she will bring forward some updates to Select Board policies. She stated that she has been working on the capital budget plan regarding Town needs in next five years and how to finance those actions; she will provide more details in September.

### **Report of Warrants**

The following warrants have been signed:

- 06/30/2020 55VS20 \$38,738.06 (KK)
- 06/30/2020 55V20 \$207,142.44 (KK)
- 07/14/2020 02VS21 \$88,044.07 (KK)
- 07/14/2020 02V21 \$299,152.37 (KK)
- 07/17/2020 01P21 & 01PS21 \$442,022.92 (KK)
- 05/12/2020 46PS20 \$-3,095.20 (KK)
- 07/21/2020 03V21 \$252,194.65 (KK)
- 07/28/2020 04VS21 \$29,173.34 (KK)
- 07/28/2020 04V21 \$3,088,735.05 (KK)
- 07/28/2020 LUMP20A \$41,429.40 (KK)
- 07/31/2020 02LNG21 \$98,096.60 (KK)
- 07/31/2020 02P21 & 02PS21 \$486,279.57 (KK)
- 08/04/2020 05V21 \$321,040.70 (KK)
- 08/11/2020 06VS21 \$33,742.58 (KK)
- 08/11/2020 06V21 \$1,265,251.47 (KK)

Given the large number of warrants at this meeting, Ms. Robinson reviewed that she checked with Finance as to whether or not the Board needs to individually read each one. Going forward, the advice is that the Select Board read a motion such as the one scripted below, and the list of warrants will be included in the minutes of the meeting.

A motion was made by Mr. Kalkut that the Board approve fifteen warrants for the period May 12, 2020 – August 12, 2020 as printed on the agenda for this meeting. It was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

### **Approve Minutes**

Please consider approval of the minutes

There are two sets of minutes of recent meetings ready for approval by the Board.

A motion was made by Ms. Mecklenburg that the Board approve the regular meeting minutes of July 14 and August 4, 2020. It was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

Discussion commenced as to whether the next Select Board meeting should be held on August 31, 2020, or September 1, 2020. It was agreed to leave the next meeting scheduled for September 1, 2020.

At 8:32 p.m., a motion was made by Mr. Kalkut to adjourn the meeting. It was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

The next meeting of the Norfolk Select Board is scheduled to be held remotely on Tuesday, September 1, 2020, at 7:00 p.m.

This is a true and accurate report of the Select Board's remote meeting of August 18, 2020.

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Anita Mecklenburg, Clerk

**DRAFT**

**Norfolk Select Board's Open Session Meeting Minutes  
September 1, 2020**

**This meeting was held as a Remote Access Zoom Virtual Meeting.**

Members Present: Kevin Kalkut; CiCi Van Tine; Anita Mecklenburg. Members Not Present: None. Also Present: Blythe Robinson, Town Administrator; Judith Lizardi, Executive Assistant.

Mr. Kalkut called the Remote Access Zoom Virtual Meeting to order at 7:00 p.m.

Chair Kalkut noted the Massachusetts State of Emergency and the associated state legislation allowing towns to hold remote access virtual meetings during the COVID-19 pandemic crisis. He reviewed that in accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the September 1, 2020, 7:00 p.m. public meeting of the Norfolk Select Board shall be physically closed to the public to avoid group congregation. Alternative public access to this meeting shall be done via Zoom online video conferencing. This application will allow users to view the meeting and provide comments during allocated windows as outlined in the Board's Public Comment Policy. He noted the Zoom Meeting link and the Zoom Meeting call-in number are provided on the agenda. He stated that all supporting materials have been published to the website.

Ms. Robinson reviewed the agenda.

COVID-19 Updates

Ms. Robinson stated Norfolk has had a total of 40 cases of COVID-19 with one active case. She noted that Norfolk is in the white zone on the governor's COVID-19 town-by-town map. She stated that school openings are proceeding. She and Mr. Todd Lindmark, Finance Director, had meetings with both school districts to get an understanding of the costs for schools to reopen and there will be some additional costs besides those already submitted under CARES Act and FEMA.

Public Comment

None.

**Action Items**

Please consider award of a contract for the construction of the Holbrook Street Wellfield and Pump Station

Ms. Robinson stated that for several years the Town has been in the process of bringing online a third wellfield located on Holbrook Street. Construction has taken place in two stages, first to install the actual wells which is just wrapping up, and now the construction of the actual pump station and required equipment, and installation of main from the station to the street so treated water can be pumped into the distribution system. She reviewed two memos included in the Select Board's meeting packet. The first gives a recap of the funding for the project and the status of what remains for this contract. At the annual town meeting in June an additional \$173,000 was appropriated to ensure sufficient funds were on hand to complete the work. She stated that the engineers are comfortable with the \$124,000 contingency. The second memo is a recommendation to award the contract for the work to Biszko Building Systems for \$1,820,995. This project attracted seven bidders; the difference in price between most of them was quite tight, which reveals there was good competition for the work and that the bidders priced it fairly much the same. The bid was structured with two alternates, one

for the emergency generator and the other for the paving of the road to the wellfield. She recommended award of the first alternate for the generator, but not the paving. She stated that from the SERSG bid the Town can have that contractor complete the work for less than the alternate price; that cost has been carried in the overall budget. Environmental Partners has reviewed the proposals and contacted the bidder's references and recommends the Town award it to them. The project would move ahead soon with the hope to produce water from the well in spring.

Mr. Blair Crane, Director of Public Works, stated that the Town's current two well sites combined output averages 960,000 gallons per day; during the summer this is at the maximum peak. It stresses the system to run the wells continuously. The Holbrook system is permitted for 400,000 gallons and will allow DPW to take one well offline for maintenance or mechanical operation. He said the Spruce Road pump station is starting to stress and over the coming years it will produce less water; the Holbrook Street well is a necessity. In response to questions, Mr. Crane stated the Holbrook well source comes from the Charles River Watershed and is licensed through DEP who permits the amount allowed to be drawn from the well. Ms. Robinson noted that as the Town develops, options for another well will need to be explored to meet demand.

A motion was made by Mr. Kalkut that the Board vote to award a contract for the construction of the Holbrook Street Wellfield and Pump Station to Biszko Building Systems in the amount of \$1,820,995 which is comprised of the base bid of \$1,712,995 and Alternate #1 for the generator of \$108,000. It was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

Please consider approval of the request by the Mayflower Council District Boy Scouts of America to hold a one-day, outdoor Cub Scout joining event on Town Hill on Saturday, September 12, 2020, from 12 PM to 3 PM

Ms. Robinson stated that included in the Select Board's meeting packet is a request from this scout troop to use Town Hill for a joining event on September 12, 2020. All relevant departments agree and have no concerns regarding this request. As their request notes, they are not able to pinpoint how many people will come, but are making provisions to ensure the number stays within state mandated limits, and that masks and social distancing will be in place.

Ms. Christina Davis, co-chair Mayflower Council, stated she is representing the Metacomet District; this is a council-wide joining event for cub scouts. They will work to control social distancing, masks will be required, and hand sanitizer will be available. Four tables will have information for attendees to look at without touching, and handouts will be handed to individuals. A fifth table will contain paper applications and pens that will be sanitized or thrown away. As it is an open house event, they do not expect a crowd to gather at any time. She noted that cub scouts range in age from 5 to 12; Cub Scouts is open to boys and girls.

Ms. Mecklenburg stated it seems like they have made careful arrangements.

A motion was made by Mr. Kalkut that the Board vote to approve a request by the Mayflower Council District Boy Scouts of America to hold a one-day, outdoor Cub Scout joining event on Town Hill on Saturday, September 12, 2020, from 12 PM to 3 PM. It was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

## **Discussion Items**

Please discuss updates and additions to the Select Board's Policies

Ms. Robinson stated that included in the Select Board's meeting packet is a number of policies that she recommended be added to the Town's manuals and an amendment to the sexual harassment policy. These new or revised policies include: Anti-Discrimination and Anti-Harassment Including Sexual Harassment Policy, Code of Conduct Policy for Town Boards and Committees, Employee Safety Policy, Equal Employment Opportunity Policy, Fraud and Theft Prevention Policy, and Video Monitoring Policy. She noted that it has been determined that it would be best going forward to have two separate policy documents. Up to this point, both general board policies and human resource policies have been in the same manual. The intent is to separate them into Select Board's policies which are broader in nature and cover a range of matters that the Select Board has responsibility for, and human resource policies. The goal in this regard is to formalize a centralized employee handbook and make sure it includes all of the policies that pertain to employment to the Town. She recommended that the Select Board begin discussion and review on these new/revised policies after which she would distribute them to employees, and where relevant to other Town committee members, so that they may review them and provide any concerns or feedback that should be considered before the Select Board adopts the policies at a future meeting.

Mr. Scott Bragdon, Human Resources Director, provided an overview of each policy. He noted that current best practices include updating protected classes and legal wording in the Anti-Discrimination and Anti-Harassment Including Sexual Harassment Policy. He noted the Code of Conduct Policy would cover boards and committees and the Employee Safety Policy regards having a safe and healthy work environment for all employees. The EEO Policy covers discrimination based on hiring and promotion; the Town is covered under State and Federal laws, but it is important for the Town to have a policy that outlines this to the public. As well, it is best practice for a Town to have a Fraud and Theft Prevention Policy. The Video Monitoring Policy covers all aspects of video monitoring including procedure and oversight; it excludes the police department. He noted that after the policies are adopted by the Select Board, they will be given to current employees to have them sign off that they have received and read them.

Mr. Kalkut noted the additions and revisions are to standardize the policies and be helpful for new employees. Ms. Mecklenburg stated that she likes the idea that the new and revised policies are being shared with staff so everyone has a voice in it. Ms. Van Tine asked if she could redline the policies for needed grammatical revisions. Ms. Robinson said that would be welcomed and noted the Code of Conduct Policy was reviewed with the Town Clerk. Mr. Kalkut thanked Mr. Bragdon for his presentation.

Please discuss website posting of board correspondence

Ms. Robinson stated that this item will be appearing on the Select Board meeting agendas going forward so that when correspondence comes up that the Select Board might want to post, it can be discussed. For this meeting there are no items to consider.

Mr. Kalkut stated the five emails discussed at the last meeting will be posted.

Town Administrator Updates

Ms. Robinson stated it will be a busy agenda for the next Select Board meeting which includes the continuation of the dog hearing. She noted the report from the dog owner's dog expert has not been received. She stated she has been working with the Animal Control Officer and the Town Clerk and will bring forward an updated animal control bylaw to the Select Board to see if they want to take it

up at fall or spring town meeting. She noted good progress is being made on a detailed capital improvement plan for the Select Board to review including specifics on individual projects and where the Town stands on commitment to capital costs and financing. She noted a few telephone calls have been received by residents regarding train horns. The project for the installation of the second train track is scheduled to continue for another few months; as such, the whole area is posted as a construction zone. Train engineers blow train horns when coming into a construction zone and if they see someone working; there is nothing the Town can do to stop that. Regarding two 40B projects in Town, 144 Seekonk Street got approved by the ZBA in mid-August; the Abbyville project is getting close to approval but is still being negotiated by the ZBA. The Select Board must sign-off on the agreements. She noted she would check with the DPW on the status of street paving.

### **Report of Warrants**

The following warrants have been signed:

- 06/16/2020 LUMP20A \$293.63 (KK)
- 07/31/2020 02LNG21 Adj. \$-275.60 (KK)
- 08/14/2020 03P21 & 03PS21 \$494,391.10 (KK)
- 08/18/2020 07V21 \$2,548,609.09 (KK)
- 08/25/2020 08VS21 \$45,257.48 (KK)
- 08/25/2020 08V21 \$179,381.37 (KK)

A motion was made by Mr. Kalkut that the Board approve six (6) warrants for the period June 16, 2020 – August 25, 2020 as printed on the agenda for this meeting. It was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

Please consider approval of the minutes

Ms. Robinson stated that there are no sets of minutes ready for approval at this meeting.

Mr. Kalkut thanked the Town Clerk, Assistant Town Clerk, and poll workers for their hard work on the election.

### **Executive Session**

**Executive session under M.G.L. c.30A, §21(a)(3) to obtain advice of counsel and discuss strategy with respect to potential litigation regarding the construction of the Police Station, insofar as an open meeting may have a detrimental effect on the litigation position of the public body.**

At 7:49 p.m. a motion was made by Mr. Kalkut that the Board enter into executive session under M.G.L. c.30A, §21(a)(3) to obtain advice of counsel and discuss strategy with respect to potential litigation regarding the construction of the Police Station, insofar as an open meeting may have a detrimental effect on the litigation position of the public body and invite Town Counsel Peter Mello, Blythe Robinson and Judith Lizardi to participate, and to not return to open session at the conclusion of the executive session. The motion was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

At 7:49 p.m., the Open Session of the September 1, 2020, Select Board meeting ended.

The next meeting of the Norfolk Select Board is scheduled to be held remotely on Tuesday, September 15, 2020, at 7:00 p.m.

This is a true and accurate report of the Select Board's remote meeting of September 1, 2020.

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Anita Mecklenburg, Clerk