

March 7, 2017

Present is Jeffrey Palumbo, Scott Bugbee, James Lehan, Jack Hathaway, Town Administrator, and Marian Harrington, Executive Assistant.

The meeting was held in Room 124, Town Hall. Jeff Palumbo opened the meeting at 7:00 p.m. Jeff announced that the meeting was audio and video taped. All present recited the Pledge of Allegiance.

NORFOLK CULTURAL COUNCIL, ONE-DAY BEER/WINE LICENSE

Present was Charity Stolarz from the Norfolk Cultural Council. Charity told the Board that Artist Dmitri Valone would like to have a reception at the Norfolk Library to promote his work. He will hold it on March 24, 2017 from 6 p.m. to 8 p.m., and serve refreshments and beer and wine. She is requesting a one-day beer and wine permit for this event. Charity said they would like to work with Norfolk Craft Beer. Scott asked who would be serving. Charity said they would have someone certified to do it.

Jim Lehan moved to approve a one-day beer and wine permit for March 24, 2017 from 6 – 8 p.m. at the Norfolk Library. Scott Bugbee seconded, and it was **so voted**.

WATER RATE PUBLIC HEARING – FY'18

Present was Robert McGhee, DPW Director. Also present was Ryan J. Allgrove, P.E., and Ann Marie Petricca, C.P.G., Environmental Partners Group.

Jim Lehan read the public hearing notice. Jim Lehan moved to formally open the public hearing. Scott Bugbee seconded and it was **so voted**.

Bob McGhee said that there will be no rate increases this year, but he is expecting increases next year, and just wanted to get that out there to let the Board know.

Jim Lehan moved to approve no increase to the FY'18 water rates and fees. Scott Bugbee seconded, and it was **so voted**.

Bob discussed increasing the Container Rental from \$25 per week to \$50 per week after two weeks. Bob said that we presently charge \$200 for a two-week rental and an additional charge of \$25 a week after two weeks plus a tipping fee. He said he found that residents are holding the containers longer, creating a longer waiting list. He said that holding it for 6 weeks at \$25 a week doesn't seem like a lot to people. He is running out of containers. They will update a

list of fees, and put it on the website. Bob said people renting containers ask what the fees are. They are trying to break even, and not profit from it.

Jim Lehan moved to increase the Container Rental Fee from \$25.00 per week to \$50.00 per week after two weeks. Scott Bugbee seconded, and it was **so voted**.

Jim Lehan moved to close the hearing. Scott Bugbee seconded, and it was **so voted**.

Bob McGhee discussed the Water Assessment Report. He gave a brief introduction. The two consultants from Environmental Partners Group, were Ryan Allgrove, Project Manager, and Ann Marie Petricca, C.P.G.

Ryan discussed the Water Supply Assessment and new Source Water Supply Development.

He discussed the Historic Water Use from 2004 to 2015. Ryan said the summer has obviously increased the maximum usage with hot days.

Ryan said the Spruce Road well has deteriorated significantly. Gold Street has taken the demand since Spruce Road has deteriorated. We have no redundancy with this system.

Bob McGhee said that from November to April, we use about 300,000 gallons per day. But he noted that from May to August we almost double. We spike up to about 700,000. He said that what happens is mostly irrigation. Filling pools takes water, but not like the irrigation systems do. He said we have talked about doing something about the irrigations, but we haven't done anything. People take pride in their lawns, but we don't have the water supply to handle irrigations. When this bottoms out, it will be too late to do anything about it.

Bob said we have an interconnect with Franklin, and with Wrentham. Franklin has fluoride and we have to notify people of that. But Wrentham will not help us if we are low because of irrigations. We do have two towns that can assist us if we need it. They are our backup supplies. Bob said that if we have a fire, it can drain one of those million gallon tanks right down. If we are pumping 500-700 gallons a day, and there is a drought or fire, it is a worry.

Ryan said for redundancy, 3 or 4 tanks would be good for a town this size. It would take the curse out of the big days. But if you have 5 or 7 days in a row, this is where it would help. If you have several tanks, you need to move the water in winter especially because it isn't being moved.

Bob said the system can tell them what is going on. He said that people on irrigation systems who are on the water system can be detected and we can watch what is happening. They have saved many residents who had leaks and didn't know it. Jim would like to have people stopped from using irrigation. Jeff would like to see a control manner where we can find something that triggers some type of action at a point, and it is the same for everyone.

Jack said if we can use Al Phinney's system to find spike users, are you okay with us putting a fine on the resident's bill? When we tell residents to change their watering habits, they change for a while, but then go back if they think we aren't watching, and others just flat say no.

Scott asked if it can be a permitting thing. When the Building Inspector is giving permits, can we use that avenue? It was no, because this isn't something a Building person needs to control.

Jim asked if we can go after the installer since they are installing them illegally. Jack said the problem is that the clerk at the court can't be bothered, and throws it out.

Ryan said that there are 816 people in the area that are not on town water.

Bob said the growth is going up, but our wells are declining.

The Board asked if they have 816 people not on town water but could be, what happens if 500 of those people became users. Ryan said DEP would ask us what we are doing, and has a list they will ask. Jack said there could be unfunded mandates or even fine us.

Bob said we need to let the Planning Board know that there is a water problem. They approve subdivisions, and should be aware of water issues.

Walter said that ZBA as well because they do the 40B's. Bob said there was never a water problem and people didn't have to worry about this. But now we do.

Jim asked if it makes sense to reconsider the bylaw that mandates that all new homes be on town water. Bob said it would be a great consideration. Jack said we need to consider the private wells that are unrestricted as well because of the aquifer.

Bob said he and Jack saw paperwork that mandates private wells would comply with a state and federal restriction or ban during a serious drought like we just went through.

Ryan said we could consider seasonal rates. Perhaps put your rates higher in the summer. Town Meeting vote for fluoridation.

Ann Marie discussed New Source Water Supply Goals. We are looking for new sources. New sources water supply sites looked at were Stop River, Campbell State Forest, Grove Street, Lawrence Street and Holbrook Street. She said they looked at Lawrence Street, which was okay, but Holbrook Street has more potential. Holbrook is on the Millis/Norfolk town line. They submitted a request for site exam and pump test proposal in February 2017, and hope to hear from DEP in April 2017.

Ann Marie said the pumping rate is 0.7 million gallons per day. How much could we produce if we go with a wellfield/well. She said she prefers a wellfield to a well. The more wells you have the more water you can pump. If you have five in a wellfield, it all goes into a pumphouse and pump together. She prefers a wellfield.

Kathy Kubit expressed concern about the pipeline going in next to the aquifer. She said with Lakeland Farms she said she was concerned about the water supply. There should be a moratorium on water and new building.

Bob said that we would have an increase on rates next year. The Water Assessment should be a good tool used by Planning and other boards. We are looking at other sites, and when developments come on, sometimes some good things come with it. Lawrence Street had good clean water that they tested, and things like this are what she should look at. Bob said the search for water is to keep going. This is just the beginning.

Jack said we need to seek permission to get this well certified, but not go forward. Trying to get a redundant well. Our growth curve is a challenge too. The permitting process is what total we can withdraw. He said \$305,000 to continue through the 5-day pump test and the rest of the process and get to the fall. We can ask for more at the fall town meeting, if needed.

Bob said demand on wells is 24/7 sometimes. These new wells will allow the wells to rest, which is fantastic.

Jack said we have to decide if we want to request the \$300,000 now to get us through to town meeting, or ask for the whole thing at once.

The Board thanked Bob for the great job done on the roads during the last big storm.

RUN AND GUN RANCH, 123 SEEKONK STREET – ENTERTAINMENT LICENSE

Present was Mike Brogan, 123 Seekonk Street.

The Board discussed the Entertainment License application submitted by Mike Brogan.

Jeff Palumbo asked who would be representing the Run and Gun Ranch regarding the Entertainment License. Mike Brogan said he would be, and came forward. Jeff said that, he and his colleagues received the application that you filed in the packet of information for this meeting this evening and at the last meeting, they had questions and basically developed a list of questions for Mike, which Jack Hathaway forwarded to him for answers, and you've come back tonight with a modified application. Mike responded yes.

Jeff said this gives you an opportunity to discuss your intentions as to this upcoming season, and also maybe take a step back and give us some sense of the evolution of the property and the activities that you anticipate taking place on that property going forward, because obviously there is some pretty significant changes in terms of the application we've been presented vs. the activity level of the previous year. Jeff said he thinks he speaks for his colleagues in wanting to understand what your intentions are. Mike said just being able to have these events at the farm that sanctioning bodies would like to have. Mostly barrel races, there are two shoots as there always are, and mostly barrel races and poles. They are just like barrels, only poles that bend. Mike said yes, they are having more events. People are realizing what a good situation they have and want to come and have a venue there because it's a good facility.

Scott asked where were they being held in the past. Scott doesn't understand where the demand is coming from. Were they not being held ever, and suddenly popped up?

Mike said they will be holding things; they are having their own. They are having MBHA, IBRA and then they will have their own summer series where they will have 7 events that they will hold. They will hold the Top 6 and you will be able to take the 6 best and combine it and have points and do paybacks and buckles. It's really about giving the competitors a buckle when they win their class, or the series.

Jeff said in terms of the property, he thinks the people who travel this area, Seekonk Street, have seen a lot of activity or a lot of construction here over the past two years. Jeff said, for his own benefit, he wants to understand the vision in terms of what's happened, and there's a large structure being constructed – he doesn't believe it's been put into service yet, but that perspective is important

because, as you well know, we have residents who are in very close proximity to the Run and Gun Ranch. These residents also have certain rights as property owners, as far as their quality of life – peace and tranquility. Jeff said they need to understand more from Mike; where is this going?

Mike said he built the indoor ring for his girl and his daughter because they wanted to practice. Mike said they have a horse in North Carolina for 3 months, in training, and if they go to North Carolina there is snow there, so they aren't going to ride. Mike said he built the indoor primarily to utilize themselves, but if there is rain and they have a barrel race scheduled, they will hold it indoors. That is why he built it. There is not a lot of them, and not a lot of them that size. He said he is trying to build something there for his retirement. He said he wants a farm to develop income. He does heating and air conditioning, and can't be crawling in attics on floor joists when he's 50 years old. Jeff said the Board does not want to inhibit your ability to generate income, and potentially your livelihood; that is certainly not our intent. But the Board is trying to strike a balance between your financial security and the residents ability to have some peace and quiet on weekends to have cookouts or whatever, especially with the weather getting better.

Mike asked Jeff if he has been to an event. Jeff said he has driven by and slowed down, but has not attended one. Mike said the shoots are popular, but at the last barrel race, he had 9 people. He said he has more people at his house on a Saturday for a cookout. Mike said these are small events. Mike said he understands the concern of the shoots, but they are no louder than the Gun Club in the back, and certainly no louder than it is going to be when they clear all that acreage for the 40B project. Mike said moving things inside will help with the sound. He has insulated it for sound, not for heat but strictly for sound. He said the inside arena is 84 x 172. The outdoor arena is 165 x 265. Mike said he can't do shoots inside, and people come to him because his arena is not small. He said they come to his place because they don't want a small area to race. Mike said he knows Jack has attended. Have any Board members come? Scott and Jim have attended events. Mike said it's not a noisy event by any means. Jeff wants to understand what he does.

Mike would like to go back to 2 speakers. Mike said the arena is 265' long and the announcer stands in the middle. So if you take the one speaker and point it towards the back, then they have to elevate it for them to hear in the front. If we go back to the two speakers, on the announcers stand – pointed both ways, you wouldn't have to elevate the one going in the wrong direction, and for the people being able to hear, who are up next. We are trying to make the speakers do a u-turn. He said that it isn't working.

Jeff said that for the record, the Board is in receipt of email from abutters who express concern about the decibel testing at the Town's expense for the noise levels. Jeff said he was personally disappointed that jackhammering was done while the testing was being done. He said the person doing the testing on the Town's behalf said he made his conclusions nevertheless. He felt confident in making his conclusions; however, Jeff said I have to tell you that he is disappointed that of all times that that activity was taking place that up until that time, there had been little of that activity up until that day, perhaps the afternoon before it began, and we talk about the test of reasonableness of all parties and you, a property owner and businessman, and he doesn't think it was reasonable on his behalf that he picked that time to use the jackhammer as he knew the decibel testing was being done at that exact time. The Board wanted to know why.

Mike said he would explain but you aren't going to like it. He was told that if he went to a 61B in this Town, there would be no sound test. Mike said he went to 61B, and we still required a sound test. He said he read the letter that said that the jackhammer hadn't been used for three weeks. He said he used the jackhammer every day for at least four weeks. Breaking rock was his only way to get it off the property. He got the jackhammer from a gentleman on Stop River, and they used it for that day forward for weeks to break the rock.

Jim said he takes issue with what Mike said. He told Mike that you were advised and asked specifically by the Town Administrator not to run it. But you defied that and made a conscious decision and ran it anyway. Jim told him that we are in the middle of a rock fight. There are issues on both sides of this, and we are trying to protect your rights. The Board of Selectmen is trying to work with you, and you did that blatantly and on purpose and knew what you were doing. Jim said he feels it was done vindictively, and this is not the way to play. You are dealing with the Town. What you do with others is a different story. You knowingly did that and were asked not to and did it anyway. You aren't playing fair. Mike said did you not tell me that if I went to 61B...Jim said absolutely not. We never told you that. Jeff said we even went so far as to take steps so that we wouldn't have to access your property to do the sound test.

Jeff said we tried to do this and in good faith you should have worked with the town and it cost us thousands of dollars and the results were less than they could have been. Mike said he talked with the sound engineer, and he said that you are probably hurting yourself with that because it isn't effective. Jim said we are not challenging the report. We are upset that you knowingly did something to aggravate the report, and Mike said he did make that decision.

Jim said you make it more difficult when you deal with us in that regard. There was no reason to do that. We are not going to win no matter what we decide.

Jack said that he can probably clear up a little of this gray area. He knows there was discussion that if he went to 61B, shooting of guns is allowed under 61B. And one would think that shooting is allowed and that would have been the end of that issue. Unfortunately, like many other Massachusetts state laws, and other states are probably guilty of this, too, under local zoning there is a noise bylaw that could potentially conflict with that. Mike said that being agricultural, noise and odor and other things are under agricultural use. Jack said then we have to get into agrientertainment or whatever they call it. Mike said it's agricultural. They have another new stud on property. They have work to do. 61B tax delineation. It is not deemed like the ball fields or Fore Kicks or as recreational. It is an agricultural business.

Jim said we are not arguing the agricultural. This is off the table. Nothing we can do. Jim said this is a highly emotional issue, and it's disturbing when we are trying to mitigate this and be fair, although neither party is going to be happy, only to have you not work with us in this regard. There is no reason for you not to work with us.

Jeff said in terms of your application, under safety precautions with on street parking. Mike wasn't sure what you were asking? They can park the vehicles on the property. Mike had no other issues other than wanting two speakers.

Mike said the shoots are the same shoots as last year. One is a club event, and one is a state shoot. August 12th is the state shoot. How many attend is usually up to what the weather is like.

Jeff said you have 42 events. Mike said he had a lot of legal expense this year. Mike said they are not asking for a lot of shooting events. He said the barrel races are small events and are quiet. People come early to get their horse familiar with the arena. There are warm ups and then they start the event.

Mike said that there are other entertainment licenses that are businesses in town. We give it to them all year. The Board said that they are commercial and in a commercially zoned area. The Board discussed every weekend in July and August, and 4 in June. Prime summer months. Mike said they are barrel races, and there is no sound from them. The shoots are noisy, but there is only two.

Jeff wants to work with Mike to prioritize dates and take into consideration the concerns we have with your neighbors to give them the opportunity to have some peace and quiet during the summer. Mike said he puts 100% of the farm back into the farm. It's what they do. It's their horses.

Jack asked that letters of 1/24/17 and 10/27/16 from Tara Comendul and 3/6/17 from Karen Clark be entered into the record.

Dr. Carpenter of 120 Seekonk St. said he understands what he's asking for is 51% of the weekends from March to September. He said that many people come and camp. That is a whole different realm of problems – public safety, health, etc. He said in the application, he wrote horse shows. There are no horse shows – it's rodeos, etc. There is no cow pinning, etc. Under safety precautions, no parking on street is something of a joke. Last year talked about emergency routes, etc. That should be on there. He said they could hear the one speaker, so he doesn't need two speakers. Music is for the rider, give them an IPAD. He feels what is going on is spot zoning. Dr. Carpenter said the horses are not bred, or even trained by Mr. Brogan. He appreciates the Board of Selectmen's comments that they are protecting the neighbors. He said he hopes you all read the decibel report and asked them to pay attention to the report. He thinks it's a waste of taxes and is horrified at the report. There is no time that the Selectmen has tried to bring the parties together and try to work together. It's been all for Mr. Brogan, and has not brought them together. He showed the calendar. There is 40 days of events. It is getting worse and worse, and next year will be worse if you don't put a brake on it.

Kathy Kubit, Cleveland Street. Last year, the speakers ran all day long. When it happened the second time, she learned of the barrel racing. In the beginning, this was presented as a hobby and something for his daughter. Now he's saying it's an enterprise and a way to earn income. Let's have another acoustical test to show the shoots are higher. She suggested they could use earbuds for the riders for their music.

Kathy was concerned the overnight camping will end up by their property. She was concerned about no restroom, open fires, late hours, etc. If you are inviting 75 people, there could be many campers.

Cindy Tayman, 117 Seekonk Street. Cindy said dust hasn't been mentioned. The amount of dust into the yard and house is atrocious. She said water on dirt is taking away from water in her well, too. She is concerned about the increase in contestants and she isn't even 100 feet from his property. She has no AC in summer and they have their windows open.

Resident on Seekonk Street – no name given. Said Mass General Law 61B says you can't race. Read the law. Michael is trying to get a tax break and earn money. Not fair. Horse racing is not allowed on a 61B.

Jeff said to Mike that obviously people aren't happy. Jeff is committed to a plan that is reasonableness. Jeff said we aren't asking to whittle it down to 14, but

we will work with you. Can we work with you? Mike said yes, he told the Selectmen to give him a number of events, but he wants some floaters. Jeff told him to give dates that they can work with his abutters. 6, 19 and 20 – 3 days of events but give the residents a chance to work their schedules around the dates without it being every weekend, or consecutive weekends. We as a Board are trying to support the community.

Jim takes great exception to Dr. Carpenter's comment that they haven't tried to mitigate this. Jim agrees that Mike is pushing more and more toward a commercial event. The direction to move this way is clear. You can protect your ability to do what you want to do, but we have to do something. Jim said authorize the 14 events, and that the additional would be held inside. Mike said he couldn't put them inside with the heat.

Scott agreed it is a growing business. He said maybe the courts would have to decide.

Jeff said he would like entire weekend Sat/Sun or Sat/Sat is preferable. He wants feedback as to what you want.

Steven Olson, 136 Boardman Street. Sunday is the quiet day, so he would prefer to see them on Saturday. He said the Board could control what goes on. He doesn't know that Mike can renew it. Jeff said an entertainment license is a means of influencing the activity. We are limited in what we as a Board and the Town of Norfolk do with this. Jim said we are restricted within certain boundaries, and we have talked with Town Counsel about this. We cannot not renew the license. We would be in court and lose tomorrow. We have spent countless days and hours with Counsel reviewing this. Mike's lawyer doesn't agree with a lot of what we do and say. Our legal resource is our Counsel, and that's who we rely on. We know our boundaries and we have to stay inside them, and we can't go outside them. We have no basis to deny him a license. You can deny this and the answer is the courts. We have to all work together. The boundaries you want are not within our power.

Jeff told them that our Counsel has ruled on the horse racing, and does not agree with your position.

Kathy Kubit wants no long weekends. As well as Mother's Day, Graduation, etc.

Mike said music is only shoots. So only two dates are noise from music.

Jeff said we would take action for the short term and buy us time for collectively discussing this to get the long term dates.

Cindy stated that we are arbitrarily picking dates. Jeff said this is not how we will do it. Scott said give him how many dates, and Mike can come back on the 21st

Mike said he would like 30 days, 2 floats and 2 shoots. Jeff said he wants to see what it looks like. He wants a floater that won't be a weekend. Mike will produce a list of dates for the Board to review, and get it to Jack Hathaway in a day or so.

Paul Comendul said this is 28 dates inclusive of the shoots. Take into consideration the comments Saturdays vs. Sunday.

Jim Lehan moved to have 20 barrel races, 2 shoots, and 2 floaters. Scott Bugbee seconded, and there was discussion.

Jeff said that we will review the dates that Mr. Brogan provides before our next meeting, and that we execute the license contingent on 1 speaker and dates avoiding consecutive weekends and try to avoid Sundays if possible. Times will be 10 a.m to 6 p.m. Not doing March 11th date. This will be contingent upon review and approval of his dates. The above motion was **so voted**.

TOWN ADMINISTRATOR REPORT

Report of Warrants

Jack reported that the following warrants have been signed: 2/28/17 - #35V17 for \$213,122.13.

Action Items

Jim moved to authorize Jack Hathaway to sign the attached contract with Stop & Shop subject to the Chair's review and subsequent approval. Scott Bugbee seconded, and it was **so voted**.

Scott Bugbee moved a one-day wine license for Questers in the Library Community Room on Friday, May 5th from 6 – 10 p.m. Jim recused himself. Jeff Palumbo seconded, and it was **so voted**.

Jim Lehan moved to appoint Melissa Ennulat a member of the Norfolk Cultural Council for a three-year term. Scott Bugbee seconded, and it was **so voted**.

Scott Bugbee moved to grant permission to the Garden Club to use Town Hill/Bandstand for its annual perennial plant and bake sale on Saturday, May 20th from 9 a.m. to 12 noon. Jim Lehan seconded, and it was **so voted**.

Scott Bugbee moved to grant permission to the Norfolk Grange #135 to hold their annual Clean and Green Campaign on Saturday, April 8th from 11 a.m. to 4 p.m. Jim Lehan seconded, and it was **so voted**.

Scott Bugbee moved to allow King Philip to put up signage within the Town. Give the design and wording to Jack to be sure it applies to bylaws. Jim Lehan seconded, and it was **so voted**.

Discussion Items

The Board reviewed the draft town meeting warrant and considered closing the warrant.

Jim Lehan moved for a 5-minute recess. Scott Bugbee seconded, and it was **so voted**.

Jim Lehan moved to remove Article M from the warrant. Scott Bugbee seconded, and it was **so voted**.

Scott Bugbee moved to close the warrant. Jim Lehan seconded, and it was **so voted**.

Town Administrator Update

Southwood Status – Jack said that we have not heard from the Archdiocese, and some feedback that Mr. Valone may come back in the fall. Scott asked about contacting the Archdiocese to clean up the site. Jim said they made it crystal clear that they don't have the funds, it's a separate LLC, and it won't happen. Scott wondered if a court could make them. Jack said it is the same as the Buckley and Mann process we went through.

Pond Street Beverage Request – Jack said that he received a request from someone who would like to serve beverages at the Pond Street Recreational Facility. He felt we should see if other people want to do this, and not limit it to just the person who asked. The Board discussed it and asked questions like what about a fee? It was decided we should consider this and have more discussion. Jim thinks Rec should start and go from there.

Town Owned Land – Auction

We have gone through the inventory of town owned land. A lot of the parcels are not buildable. Two parcels may be buildable, but questionable at best. There are 25 parcels that only a neighbor would buy – comfort that no one would build on it. Some are on Holbrook Street, and some on the school end by Geneva. Jack said we could potentially get \$100K for it.

Jack mentioned the community garden and how beautiful a job that Frank Zolli did. The drawing for a spot at the Garden is on Saturday at the Norfolk Grange.

APPROVAL OF MINUTES –

Scott Bugbee moved to accept the regular session minutes of January 10, 2017. Jim Lehan seconded, and it was **so voted**.

EXECUTIVE SESSION –

At 11:32 p.m., Jim Lehan moved to go into executive session to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares. Scott Bugbee seconded, and it was a roll call vote: Jim Lehan, **aye**; Jeff Palumbo, **aye**; and Scott Bugbee, **aye**. Discussion is associated with the litigation on Lake Street, and bargaining on the Police Union.

The Board will not go into open session and no votes will be taken.

At 12:10 a.m., Scott Bugbee moved to adjourn the meeting. Jim Lehan seconded, and it was **so voted**.

This is a true and accurate report of the Selectmen's Meeting of March 7, 2017.



James C. Lehan, Clerk

