

February 16, 2016

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

The meeting was held in Room 124, Town Hall. Jim Lehan opened the meeting at 7:00 p.m. Jim announced that the meeting was video and audio taped. Scott read the agenda contents.

RUN & GUN ENTERTAINMENT LICENSE

Present is Mike Brogan, owner of Run & Gun Ranch, 123 Seekonk Street. David DeLuca, Town Counsel was also present.

Mike was present regarding an Entertainment License for events at his property.

Jim said he realizes this is an emotional issue. Jim explained that some things the Board has no authority over and we have to stay within boundaries. When this issue came to them, they realized the only thing they can do is to stay within the issues that are the privilege of the Board. Jim said it is not a public hearing. He said that he has probably gone over what the law requires, and is doing it under the provisions the law lets them. Jim told the audience that in recognizing the rights of the applicant, he asks that they direct questions to the Board, not the applicant.

Jim said they will not be making everyone happy tonight.

David DeLuca said he was here when we first addressed this matter. It is a matter of authority for the Board to provide an entertainment license to anyone wishing to do an event. To set the parameters of a license, and to condition an entertainment proposed, guided by what is in the public good and convenience. It is an agriculturally defined premise. Chapter 61A which defines land primarily and directly used for agriculture and animals. Chapter 128, Section 1A. Farming and all the cultivation, bearing the production and harvesting...raising of livestock including horses and more. Residential is for residential and not commercial purposes. Exemption from strict application of zoning bylaw to the activity pursued as agricultural. Connect the dots and entertainment license for the property, but property is agricultural and the Board can regulate the activity. Raising and keeping of horses and barrel races activity, still subject to reasonable regulations toward the entertainment.

In the past we conditioned the license and they had the right to have the activity as an agricultural activity. It was a well thought out process which resulted in an

activity that had a license with several conditions that allowed him to conduct the event.

David commended the Board for what they have done. You should do the same thing here; however, the difference is several events over a period of days. You can condition it over a period of days.

Steven Olson, Boardman Street. Steven said life has changed since this installation has happened. He wants to hear the conditions that have just been mentioned. He said this event is very annoying, loud, shooting – on weekends. They should be able to enjoy their open porch without hearing gunshots. He wants to hear what they would do if this – a gun club, were to be had on these same premises, and what licenses you would have.

David said it would be the same benefit as an agricultural license. Jim said this is one thing not in the boundaries of this Board. The applicant has the right to hold these activities within 61A, and we don't have the right to prevent them. David said this is correct. He read the agricultural uses ruled on by the court. We can regulate this, but cannot be onerous or unreasonable.

Steven Olson asked how guns get into this? David explained there are two sections to 61, 61A and 61B; he has the option. If he goes to B, it is law that he can do target shooting and this sport is allowed. We talked to all the governing bodies - DEP, Dept. of Agriculture, etc. Jim said he could be 61A or 61B. He qualifies for 61B and would be able to do shoots.

Karen Clark questioned 61B. The land must be maintained in a natural environment – leave the trees, etc. Jim stopped her and said to not debate 61A and 61B. The Assessors certified that this is 61A property. Jim said he has not applied for 61B, but he is eligible if he so chooses. Jim said he was told about noise from the activities he is doing. Jim stressed that we cannot stop the events, only regulate them.

Jim read the list of events and times that Mike Brogan asked for. This list was reviewed by Police Chief Stone. The Board discussed the request. Scott read the part by Chief Stone what he said about safety precautions: all guns are loaded and unloaded at the armor table under supervision. We also have access around the whole property for fire trucks and ambulances at ALL times. Scott felt that was reasonable and should be part of the conditions.

Jim said he felt that "until dusk" is a defensible position. He suggested they limit hours from 9 a.m. to 5 p.m. Jim said if they roll over into Sunday on a rain date, the hours would be 10 a.m. until 4 p.m. Jeff agreed and also thought that since there are a significant number of vehicles with trailers entering Seekonk

Street, that into the early evening presents a problem, with a site line problem. Last time meant a request of the applicant to keep records of the traffic and people coming in. They touched on the noise decibel project. Scott said dusk is the worst time to drive and thinks it's the worst time. Mike Brogan said he wanted to respond to the change in hours. He won't be able to get it done by 5 p.m. He would be agreeable to 6 p.m. He said other sports go past 6 p.m. He said it does thin out, and doesn't feel this is unreasonable. It would be putting him out. Jim said we don't want to be onerous. David said they need to do this as an art, not a science. It can't be a prohibition. Mike said it's only on the shoot, which there are two scheduled. They have to warm their horses and get acclimated to the property. Mike needs until 6 p.m. to get the gunshots done. It was agreed by all to do 10 a.m.- 6 p.m. for guns and 10 a.m.- 4 p.m. for the barrel races.

Jim said the PA is one speaker. He wants it turned away from where the homes are. No music. Mike said they use it for the runs, which is music. Everyone picks their own music. It plays for 15-20 seconds. Music is part of it – 100% for shoots only.

Jim said no alcohol. No food unless licensed by the Board of Health.

Jim said instead of consecutive weekends, he would like it broken up. Mike said the schedule is for three clubs. He has no say over it. That's the dates they have scheduled. It's take them or leave them. He has no option. Mike said if there are rain dates, he would have to come back to them. Mike said barrel races won't work for 10-4 either. Chief Stone may request a detail.

Jeff said with noise, there are steps to reduce the noise exposure for the residents. David said this was discussion from last time. The Town of Norfolk has a clearly articulated standard from zoning bylaws. The DEP has a different standard. Zoning trumps anything DEP has. This is not a state law, only an objective. Our bylaw is control.

Is this activity subjected to this bylaw? David said agricultural activity is exempt from zoning regulations except as regulated by this Board. We do have the right to control it through the licensing process. If various dates and monitoring, was to be an issue, that would allow the Board to suspend temporarily and we would ask what was determined by scientific means that the noise level exceeded this. We have a right to sanction that by finding a way to mitigate that from the licensing standpoint.

David said we will license the first shoot – June 11th, and contract with independent acoustic engineers to do the testing and independent of the town – outside of the purview of the town, and that would be determined what we do

for the second shoot. Jim said we have no testing done by the town. Mike asked what the level will be. What if your standard is 80, and it reaches 82. You are taking that away from me. David says he doesn't see that at all. It is way too early to judge how that can be achieved. It is not the case. You can't use a different blank. How can he dumb down the noise? He said he doesn't know the solution or know what the problem is. If it shows something we have to work through, we will sit down and come up with a solution. We cannot use the neighbors testing. We will have it done by an independent firm.

Jennifer Wynn of Noon Hill congratulated the Board. She asked if parking is more than 20, what is your plan. Jim said that this has been discussed in the past with the Police Chief. There is no parking on Seekonk Street.

Tristan Carpenter, 120 Seekonk St. said he is concerned about events on consecutive weekends being out of line. Jim said they are not consecutive. Trist prefers every other. If it is not in his interest, it is being onerous and unfair to the applicant.

Scott said we can't constrain his ability to make money on these events.

Larry Clark asked that we clarify consecutive weekends. Jim read the event dates.

Brian Barry, Noon Hill, asked what is the shut down time to be done and out of Norfolk. Jim questioned Mike – out within an hour of the event? Scott said it's private property. Mike said some will leave following the close of the events, but some are his friends and they will stay and hang around. Jim said it is private property and people can stay if they wish.

Karen said it is inappropriate to say people leave in groups. Jim doesn't think this is a problem. We cannot prohibit him from being able to do his job.

Jim said we have 75 Chapter 61A properties in town, and we cannot make this so egregious that Mike can't do what he has a right to do.

Jeff doesn't want him rushed, because that can cause problems.

Jim said we are a right to farm community. We have to protect him and follow the law.

The Board was asked what is the number of participants. Mike said 75. He wouldn't be able to run them on the time frame. Mike said he can say 60 for both events.

The Board agreed all parking must be on site. With respect to the sanitary code, David said defer that to the Board of Health and Health Agent.

The Board will frame out conditions and Sunday will be 9-6. Jim said no Sunday shoot. Mike said if he gets rained out, he will come back to Board with dates.

Jim asked Mike if he was okay with the conditions, and he said there is nothing he can't live with.

The Board will contract with an outside consultant regarding noise.

Scott Bugbee moved to approve this entertainment license with conditions as stated. Jeff Palumbo seconded, and it was **so voted**.

Action Items

Scott Bugbee moved to relinquish our right of first refusal under M.G.L. Chapter 61A to purchase property described as Lot 5; 1 Saddle Ridge Road. Jeff Palumbo seconded, and it was **so voted**.

Scott Bugbee moved to grant a one-day liquor license for the Norfolk Cultural Council to serve wine at the Norfolk Public Library on Saturday, April 9, 2016 from 5:00 to 7:00 p.m. for a bi-annual arts competition reception and awards ceremony. Jeff Palumbo seconded, and it was **so voted**.

Scott Bugbee moved to consider the request of the Norfolk Grange #135 to conduct their 7th Annual Clean and Green event on April 30, 2016. Jeff Palumbo seconded, and it was **so voted**.

Scott Bugbee moved to approve the updated Norfolk Town Center Settlement Agreement. Jeff Palumbo seconded, and it was **so voted**.

Scott Bugbee moved to have Jim Lehan sign the updated Norfolk Town Center Settlement Agreement on behalf of the Board of Selectmen. Jeff Palumbo seconded, and it was **so voted**.

TOWN ADMINISTRATOR REPORT

Jack reviewed the Local Aid as part of the budget. He had handouts and a power point for the Board. We did receive a letter today advising us \$168,060 will be arriving within 30 days. Jack did a quick review of the budget.

Jack mentioned that March 2nd kicks off the Advisory Committee.

Jack will review the Open Items at our next meeting.

Jack mentioned that the following committees have vacancies – Community Preservation Committee, Conservation Commission, Corrections Advisory Committee, Cultural Council, Design Review Board, and Energy Committee. Anyone interested can contact the office.

Winter Storm Report – Jack discussed the recent winter storm. The town was hit hard and had loss of power. Jack said Eversource could do better. He said that Rep. Dooley also will speak with them. Jack would like a meeting to voice our displeasure. He mentioned sheltering for residents during a storm such as this. He told residents that they can call the office to leave their number to be added to the reverse 911 CTY system.

Jack said the DPW did a great job. Jack stressed to residents that if you have medical issues or are pregnant, you should let the police department know so that they can get a plow to you to assist the ambulance in an emergency during a storm like this.

Jack discussed the Public Safety Building Project. There will be a meeting on February 22nd at 4 p.m. that will be televised. Jim discussed the number being lower than they expected. He said they are not taking from one project to supplement another project.

Jack said the School Building Project is closed. He said they had to work to be sure the sub-contractor didn't disrupt the warranty.

Jack said the Metacomet Emergency Communications Center (MECC) continues to move forward. He said they usually meet on Tuesday mornings at 10 a.m.

At 9:40 p.m., Scott Bugbee 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. Jeff Palumbo seconded, and it was a roll call vote: Jim Lehan, **aye**; Scott Bugbee, **aye**; and Jeff Palumbo, **aye**.

At 9:57 p.m., Scott Bugbee moved to adjourn the meeting. Jeff Palumbo seconded, and it was **so voted**.

This is a true and accurate report of the Selectmen's Meeting of February 16, 2016.

Scott Bugbee, Clerk