MINUTES

Wolfeboro Board of Selectmen Special Meeting Thursday, March 14, 2024 at 6:30 PM 84 South Main Street

6:30 PM-SPECIAL Session

BoS members Present: Chair, Brad Harriman, David Senecal, Linda Murray, Brian Deshaies

Staff: James Pineo

Chairman Brad Harriman calls meeting to order- 6:30. Need for a non-public session?

Mr. Pineo: Yes. Non-Public Session RSA 91-A: 3- employment

 Discussion: Temporary Use agreement during construction of the Downtown Grille building

Alex Sanders: representing Peter Ford- Downtown Grille owner; Met with Brad/Linda Monday 3/11/24.

Mr. Harriman: Please talk about the updated lease agreement. [BoS has the draft agreement] Amendments and updates added.

Mrs. Murray: Worded the draft as a "temporary fence use agreement." updates items in the construction agreement for deck: bond/fees. [Refers to draft agreement to list updates made]

- Temporary fence: since no measurements taken to date, add plus/minus to lines that indicate a measurement.
- Under terms: want the construction fence up for three weeks; allowing for weather issues; Work begins March 18 end April 8.
- Requesting bond of \$5000; penalty \$50 should be April 9; \$100 starts April 10;
- Map given March 6, 2024; [hands to BoS members]

Mr. Harriman: Clarifies penalty: \$50 would be for the first two days, April 9-10 and \$100 for each additional day.

Mrs. Murray agrees.

Mr. Sanders: Timeline – begins work March 18; 75-feet of fencing installed as requested; with height requested. Local workers needed. None have ever pulled a bond before; they don't know how it works. Would you drop bond requirement not typical for these construction workers to make it easier on them? Depends on type of bond you want; need more information; undefined cost and insurance of contractors.

Mr. Deshaies: Consider a bank check made out to the town instead of the bond?

Mr. Harriman: Letter of credit from banking institution can work for smaller projects. That they have the ability to pay for any damages.

Mrs. Murray: Then we could send a letter to the bank indicating when the line of credit could be released.

Mr. Pineo: Proposes line 3 of agreement to read: line of credit naming the Town of Wolfeboro in the amount of \$5000.

Mrs. Murray: begins on March 18, 2024; ends when the town releases the project/contractors of obligation.

Mr. Harriman: Put 90-days on it.

Mr. Deshaies: Would we be able to draw any fines from line of credit?

Mrs. Murray: We could word it that way.

Mr. Pineo: Keep the fines separate. If there's pavement damaged or something; it could be a longer timeframe.

Mrs. Murray: Board could adjust penalty timing.

Mr. Deshales: Are you confident on your finish time?

Mr. Sanders: High probability of success. There are unforeseen things that could happen. We want to have all done by May 1 and landscaping done by then, too – before the prom.

Mr. Harriman: Penalty kicks in if temporary fencing is still up. Cleanup around town parking lot and Cate Park needs to be done. This temporary fence use agreement means according to the timeline – the fence comes down or penalties kick in. Project does not have to be done – but the public land needs to be cleaned up and temporary fence down according to this agreement. If this portion of the project is not done according to schedule, you'd have to come back to BoS to clarify.

Mr. Sanders: Yes.

Mrs. Murray: That's why it's a three week term – give them a little wiggle room. Hope for smooth sailing.

Mr. Sanders: intent is to be done May 1.

Mr. Pineo: Reads the updated agreement page:

Line of credit – naming Town of Wolfeboro - \$5000; 90-dates from March 14, 2024 – in lieu of a bond for any damages sustained to town property.

Mr. Sanders: sounds good.

Mr. Harriman: You've got the measurement updates – plus and minuses.

Mr. Pineo: Yes.

Mrs. Murray: Penalties: April 9th and 10th.

Mr. Pineo: \$50 for April 9-10; \$100 a day for each day additional thereafter.

Mr. Sanders: how are penalties enforced?

Mr. Harriman: Everything would be tallied up when this temporary fence project is finished.

Mr. Deshaies: Penalties paid within 30-days of when when fencing removed.

Mr. Pineo: Or attach it to the certificate of occupancy.

Mrs. Murray/Mr. Harriman agree.

MOTION by Mrs. Murray board approve the temporary fence use agreement for Cate Park and Dockside parking lot between the Town of Wolfeboro and TCW Property Development as amended tonight Second Mr. Senecal. Approved 4-0.

Mr. Sanders: Can permit be obtained as soon as this is signed off on?

Mr. Harriman: Work with Jason Dorrance [planning department] on the permit.

Mrs. Murray: Board needs to sign it.

Mr. Pineo: will ready for signature tomorrow.

Mr. Sanders: owner out of the country; DocuSign OK?

Mr. Pineo: Yes. See Amy to arrange.

Mr. Deshaies: Who does Mr. Sanders deal with to set up line of credit.

Mr. Pineo: Send bank information to Town manager - via email.

2. Discussion: Lease of Cate Park propane tank space and screening of property adjacent to Cate Park and Dockside

Mr. Harriman: We 've looked at screening of the propane tanks. We have a lease agreement for four tanks in each bank; square footage allowed and location. Noticed this spring that a CO2 tank was added to the site. We brought to their attention. Looking at plumbing Eastern had to do with bank of propane tanks under Downtown Grille windows; It's a higher elevation to screen than we originally thought; probably another two feet higher. We are leaning toward Brian's suggestion of putting fences up to screen the tanks and plumbing fixtures. Linda talked with parks and recreation about putting shrubs in front of fencing on the Cate Park side. Wants board thoughts.

Mrs. Murray: Four green tanks could have been shielded with lower shrubs; tanks are white and higher piping. I think fence is the way to go to hide it – plantings can come after the fencing. Have given thought to come across to where the ramp is and hide electric panel at far end of the building Downtown Grille. Town could plant to screen the equipment. CO2 tank is on town property. When it came, I am not sure. You cannot put something on town property without permission.

Mr. Deshaies: Suggestion is fencing tall enough to cover the green tanks in the front. Landscaping plan was difficult; fencing might be easier around tanks. Continue down the side of the building

with a fence. You won't have to worry about plantings or maintaining plantings going forward. Fencing by the town could continue behind the pet store building. Decorating in front of the fence would be taken care of by the town. We would have to make sure behind the fence does not become a storage area. Behind the fence is still town property.

Mr. Sanders: Who is responsible for fence upkeep?

Mr. Harriman: You are – owner of the building. Shrubbery would be kept by town.

Mr. Sanders: If we installed the landscaping, and a bush died years later – are we responsible for replacing the bush?

Mrs. Murray: Yes. As long as the propane tanks are there; the square footage of the space you are using is defined in the agreement.

Mr. Sanders: A vinyl fence?

Mrs. Murray: That is not defined yet; Vinyl or something parks/rec would prefer. The detail is not in here

Mr. Deshaies: Who is responsible if fence damaged-town?

Mrs. Murray: Depends on how it becomes damaged.

Mr. Deshaies: Our insurance would probably cover it but their responsibility to be sure it's in good shape.

Mr. Sanders; If there's graffiti is that our problem? Are we responsible?

Mrs. Murray: bushes/landscaping will be in front of fence – but takes time for greenery to grow.

Mr. Sanders: What is cost of landscaping in the original plan?

Mr. Deshaies: Parks/rec plan – BoS would OK the plan- cost paid for by building owner. Cost unknown and be paid by TCW Property Development.

Mr. Sanders: \$8,000-12,000? Mr. Pineo: Sounds familiar.

Mr. Sanders: This happened before the propane tank and other equipment.

Mr. Harriman: this would be where the two sets of tanks are. Asking that you swap the original landscaping plan for installation of the new fence plan.

Mr. Sanders: Taking this back to the owners of the property.

Mrs. Murray: We were looking at screening the four green tanks in the front. Tanks in the back were already shielded by Cate Park shrubs. Tanks now are white, red, green – the original plan will not work.. If we are renewing the lease in July, time to figure these items out now.

Mr. Deshaies: Will be easier in the long run. Suggests a gate would be helpful for access.

Mrs. Murray/Mr. Pineo: \$8100 - in June 2023- Belknap Landscaping estimate.

Earlier plan from owner on graph paper; scribbled some bushes; that was not acceptable.

Mr. Sanders: That's the baseline for fencing/landscaping.

Mrs. Murray: Now there's another tank there. Are we going to allow them to keep that other tank-what conditions would we place on this? What is cost to lease that additional? \$2000 was the lease.

Mr. Harriman: Additional tank is not in the original footprint.

Mr. Sanders: Clearly an oversight on our part; a misunderstanding,

Mrs. Murray: It's a continual problem of the boundaries of the owner's land and Cate Park/town/public land.

Mrs. Murray: Boundary of your land and our land has been the ongoing problem.

Mr. Deshaies: would be happy to extend the back area of their lease agreement to include the CO2 as long as the fence is installed and it's all done well.

Mrs. Murray: Lease agreement needs to be spelled out with clear descriptions Need to have a new lease that is clear with measurements – 70-square foot parcel; Cate Park, located on tax map 217; lot 94. Whatever we do – that description has to be part of the lease; may have to add another lot to the description.

Mr. Deshaies: Or we could just expand the area.

Mrs. Murray: I don't think they'll need as wide of a area. A third space should be defined to include the CO2 tank so there's misunderstanding so there is nothing else added to the leased area; three parcels instead of two would be leased.

Mr. Harriman: That's a cleaner way to do it. Agree.

Mr. Deshaies: They'd have to ask us if they wanted to add something else to the parcels.

Mrs. Murray: Paragraph #6 landscaping plan – paragraph will have to be redefined- to include landscaping fence.

Mr. Harriman: That covers it. Good to bring up now until it's summer.

Mr. Deshaies: Lease agreement in July? We have time to work on it.

Mr. Sanders: When should the fence be done?

Mrs. Murray: May 1st. Would like to have this done by prom; concerts are coming.

Mr. Sanders: OK. When will we have specifics for the fence? Fence heights? Color? Material? Mrs. Murray: Pass this to Mr. Pineo; Jim Aponas at parks/rec was going to look at types of fences might work. Can we leave that to staff?

Mr. Pineo: Agrees on Mr. Aponas taking this on. Ask parks/recs- may have to go to planning for any approval?

Mr. Harriman: Limit may be 6-feet- 6 inches off the ground.

Mr. Senecal: 6 ½ feet total.

Mr. Pineo: Parks/rec foreman will reach out to you with ideas on fencing; get us a fencing sample – for approval.

Mr. Sanders: OK.

Mr. Harriman: Should have enough space between fencing and tanks for propane/CO2 servicing. 30-inches might be needed.

Mr. Deshaies: gate might be effective to get to area.

Mrs. Murray: tanks adjacent to the deck are accessed at the deck area; the far tanks – we don't want the fence out too far so roots are cut. Jim Aponoas should be consulted.

Mr. Deshaies: 6-foot wide opening.

Mrs. Murray: Parks/rec foreman should work with you to define it - for the best solution.

Mr. Sanders: What happens if tanks are no longer needed?

Mrs. Murray: You take your fence out - with the propane tanks.

Mr. Sanders: We'd have to have approval of where the fence goes; someone would have to lay it out? Or just getting guidelines and doing our best?

Mrs. Murray: That is what we're sending to staff with Jim Pineo and the foreman – Jim Aponas.

Mr. Pineo: I am sending Jim Aponas a note now; Contact Amy tomorrow to connect you with parks/rec.

Mr. Sanders: Parks and rec mows; trims around the fence.

Mrs. Murray: Trash screening + trash receptacles. Talked with Brad/Alex Monday: Reading from her notes:

- 1. BoS will not allow any screening that allows any of the restaurants to pull their trash receptacles from underneath the Downtown Grille deck onto town dockside parking lot.
- 2. Owner will have to come up with another location for their trash receptacles; an alternative locate the receptacles between the two buildings [Downtown Grille + Wicked Loon at ground level]
- 3. Board will not approve a black tarp structure that will allow the receptacles to be rolled out onto town property.
- 4. Any changes to the planning board deck screen approval will need to be taken back to the planning board for an amended plan.
- 5. Owner provides a trash removal plan
- 6. Town fines to the owner: \$50 for first violation of trash of any kind laying on town property or trash receptacles being rolled out from under the deck onto Town property; + \$100 for each recurring violation.

This is just a draft.

Mr. Deshaies: Added information on Town littering ordinances; Part 1 of Town ordinances and bylaws; chapter 112-1; peace and good order; adoption by reference; Town is subject to the

state NH laws: Misdemeanor to litter on Town property; violation is for an empty or full trash receptacle. State fine schedule: first offense - \$62; second offense- \$124; third and subsequent offense - \$186. Linda's proposed fines are close. State ordinances in 1970 will be what we have to use for littering enforcement and fines — on town property.

Mrs. Murray/Mr. Deshaies: enforced by the WPD.

Mr. Deshaies: If you want five restaurants there; trash has to be picked up.

Mr. Sanders: Fines for trash on public property. We can't even use Town property to access our trash?

Mrs. Murray: You cannot access from public property.

Mr. Sanders: How would we access our trash? How does anybody access their trash? **Mrs. Murray:** You needed to have a trash plan when the buildings were purchased.

Mr. Sanders: can lids flip and bags taken out – just like other restaurants. Other restaurants use public property for their trash to be removed.

Last summer, there was no screening and no separation between our trash and Town. We are confident the screening would address the private vs. public property as approved by the Planning Board. That would solve the problem with shielding waste from public side.

there's no way we'll have trash bins in the entrance way on the back deck

Guest experience – we're obsessed with it. There's no way we'll have trash bins in the entrance way on the back deck [between the two buildings] for guests to see; public to see.

It won't happen again. We'll have a trash plan that will be well managed. If it does happen again, we're happy to pay the fine – but it won't. We need a chance to fix this; were confident the skirting will fix this. Product is brought in weekly; we have a lot of waste.

We have disposal – chaos to get rid of trash. No room in basement for trash. No place to put trash. Deck space is vital. We need to have access through public property.

Mr. Deshaies: Might consider giving them a temporary period of time to see if they can manage trash and the screening of the deck space. If there's a traffic issue; garbage spilled; liquid from cans on the lot and they cannot manage the trash, then we go to a solution that is more stringent. **Mr. Sanders**: I am confident we can solve this.

Mrs. Murray: We went through this last summer. From the start of this – this has been a trash issue. You are building owner. I am not willing to give because of what took place last summer.

Mr. Harriman: Doug Breskin, planning board vice-chair in attendance; comment on what happened concerning screening. My recollection [Mr. Harriman is BoS rep. on Planning Board] is we did not have a conclusion on the trash issue. Did you and Kathy Barnard meet with the owners on the deck screening?

Doug Breskin: I can speak as a citizen; I do not feel empowered to speak on behalf of the planning board. My recollection – screening PB approved at the time that deck plan was approved– our expectation was that trash bins would be stored behind the screening and they would be accessing cans by public property. The Select Board man have a different opinion. **Mrs. Murray:** BoS never saw the plan.

Mr. Breskin: Planning board never saw screening put in place. It has been some time since that was decided. And with the approval a few minutes ago – related to the construction fencing – consider how the restaurant trash will be handled while that fencing in in place.

Mrs. Murray: They'll take care of it.

Mr. Breskin: We have heard that many times in the past year. Execution has not met expectations.

Mr. Harriman: Still have some thinking to do.

Mr. Sanders: My understanding is the planning board intent we would have public property access to deal with the trash?

Mr. Breskin: I don't believe it was our intent – it was our understanding as explained by the property owner.

Mr. Sanders: That was our understanding too as we based an operation that we would have a certain amount of cubic feet outside that deck area to dispose of trash. Limiting that constrains us. Discussion about end of building property line. Discusses making it in this market.

Mr. Harriman: Does the deck come to the edge of the Downtown Grille building at the parking lot?

Mr. Sanders: I don't think so. I think there's a few inches. Did you have it surveyed?

There's no markers- nothing to reference — We think there's 4-5 inches from the deck that's part of our property.

Mr. Harriman: We did a boundary line adjustment on the exit street that goes out at the corner of the [Wicked Loon/Marker 21/Localtopia building]; survey was done on that.

Mrs. Murray: O plan here [hard copy shown my Mrs. Murray]; Town planner took the scale on the plan; there might be an inch according to town planner. People are concerned about the Cate Park walkway; handicapped spot had to be moved and pathway made.

Mr. Sanders: HC spot too close to our private property to be ADA compliant.

Mrs. Murray: That HC spot was moved because people could not park; that is now a walkway into Cate Park. The old entrance way from the lot to Cate Park is now our handicapped spot in the dockside lot.

Mr. Sanders: That wasn't our fault on the old spot that people couldn't open their vehicle doors.

Mrs. Murray: Trash bins and contractor material was there all the time on town property last year – even after the construction phase.

Expresses concern that now, the trash cans would be pulled into the Cate Park walkway area for access for pickup. Not just in the morning- whenever you need to fill a trash can. The cans are brought into the public space whenever restaurant staff needs to bring trash out and it interferes in the public walkway to Cate Park.

Mr. Harriman: We need to have more of a discussion on trash plan; timing of trash pickup and staff disposal into the trash containers; when is heavy usage of the trash area. We need more information to be able to figure this out.

Mr. Deshaies: When is trash pickup by Wakefield Disposal:

Mr. Sanders: Trash pickup is early a.m.

Mr. Deshaies: proposes possible trash workflow. Perhaps slide cans out and into from walkway area between the two restaurant buildings; place all the bins there; screened area in the front used before early a.m.

Mr. Sanders: Welcome that suggestion. Maybe we're allows late at night we could bring the trash out accessing it from the public side so we can stage the trash bins for early pickup. Cost us a lot of money; we want to make bins accessible for them.

Mr. Deshaies: If screening covers trash bins and guaranteed that restaurant staff does not access bins from 5:30 a.m. until 10 p.m.

Mr. Harriman: You need to bring the trash plan to us to talk about. Not our job to come up with ideas. Then we can work on it.

Mrs. Murray: A removal plan is what we need from them.

Mr. Sanders: We're in this because it gives us meaning.

Mrs. Murray: We're not in it to give you a hard time; we're trying to protect the public space.

Mr. Sanders: On board with having a health, harmonious community.

Mr. Deshaies: Figure this trash plan out; trash should not seen during the day; walkway not blocked in and out of Cate Park. And get the trash emptied Daily.

Mr. Sanders: Thank you for working with us. We won't have this happen this summer.

3. Review of Adhoc Sidewalk Committee survey [Survey attached to minutes]

Mrs. Murray BoS subcommittee brings this survey to BoS before it's sent out. Wanted BoS input before it's sent out to be returned by April 1.

Mr. Harriman: Looked good, Any BoS comments? [none]

4. Other Business:

Mr. Deshaies: Should we have a mechanism for questions from the public about the workings of the default budget? The NH Municipal Association explains this; a link on the town web site might be helpful to answer questions.

Mrs. Murray: NH Municipal Association: came to budget committee and gave us a file. Pages 105-Defines a default budget — could this be on the web site?

Can make copies and put it in the lobby – explains default budget. FAQ included pg. 102-103. And definitions of a default budget. Will get that to Jim to make copies.

Mr. Harriman: Public comment?

5. Public Comment:

Bobbie Boudman: Planning to make a right-to-know request Is there a place on web site to find property and all lease agreements pertaining to town property. Pages 113-117 requesting a list of all the leases we have in town; lease term limits; how much received by the Town from leases or if a third party is getting money for the leases. Train station/Chamber of Commerce: they have a lease and we pay them to do work for the Town; They lease building and Town pays \$15,000 for upkeep the bathroom. If we have leased space such as the train station – can the leasor is allowed to sublet part of the building.

Mrs. Murray: If we give you the lease, that is spelled out.

Ms. Boudman: Citizens do not understand how many leases are handled by the Town. Amy lease the town has – a list would be helpful.

Expresses concern about 40-year lease. Email sent to BoS and Jim Pineo – except Mrs. Murray. Requests reply that they got the email.

Mr. Senecal does not get town email; send to personal email.

Ms. Boudman: Jim Pineo will supply that.

Mr. Pineo: wants 91A request for the public records.

Ms. Boudman: Will do that.

Suzanne Ryan: Dockside: fencing material should be good quality; plastic fencing would look terrible.

Handout from NH Municipal Association was from when?

Mrs. Murray: took it from 2022 presentation.

Mrs. Ryan: Site plan approval from Planning Board with conditions?

Mrs. Murray: Did not get the site plan approval letter with conditions. We should check.

Mr. Deshaies: Tavis did not point that out to us.

Mrs. Ryan: Is this locker lease 40-years or 40+5; 40-5 = 35 years? Warrant article ambiguous. Questions clarity of the warrant article.

Mrs. Murray: My interpretation is that it's a 40-year lease and we'd re-write the MOU.

Mr. Pineo: Town attorney did not write the warrant article. Friends of Pop Whalen; through Town Manager, BoS and legal. I'm sorry people don't like it; there are shaking of the heads going on. **Mrs. Ryan**: Asking about the 40-year lease; since a five-year signed agreement is in place. I think it's a fair question. People voted for it.

Mr. Deshaies: MOU – my understanding that it started as an MOU written by the school board to Friends of Pop Whalen; altered by FoP; then to Kingswood Hockey- then MOU to BoS. Many hands touched the existing MOU. Warrant article- my understanding is Friends of Pop Whalen drafted it.

Does not know why there is confusion about the 40 year and the 5-year lease; was not picked up by the Town attorney or DRA.

Mrs. Ryan: I hope for some clarification at the next BoS meeting.

Bobbie Boudman: Civic process comment. Good not to attack citizens. Asking the leaders of town to have decorum when citizens are expressing opinions or questions.

MOTION by Mrs. Murray to ADJOURN into non-public session at 7:42 p.m. Second Mr. Deshaies. Approved 4-0.

MOTION by Mr. Harriman to seal the non-public minutes at 8:18 p.m. Second Mrs. Murray. Approved 4-0.

MOTION by Mr. Senecal to adjourn the non-public session at 8:18 p.m. Second Mr. Harriman. APPROVED 4-0.

Next Meeting dates: March 20, 2024 Regular Meeting April 3, 2024 Regular Meeting

Submitted by:

2024 Survey: Please respond by Monday, April 1, 2024 Ad-Hoc Sidewalk Committee Appointed by Wolfeboro Board of Selectmen

PURPOSE OF COMMITTEE: To evaluate the usage of Town of Wolfeboro sidewalks, review existing use and make recommendations for any ordinance updates needed.

SURVEY RESULTS: To use the survey information gathered to consider fair, updated policies for use by your businesses, while maintaining the comfort and safety of all who visit/live in Wolfeboro. Recommendations will be made to the Wolfeboro Board of Selectmen.

GOAL: To develop, by the Board of Selectmen, clear and fair updated sidewalk ordinance which will assure that Wolfeboro continues to provide a safe, hazard-free and ADA compliant, and welcoming experience for our visitors and residents.

Things to think about when considering the questions:

- Some businesses own property that they use for sidewalk space. In some areas, such property seemingly is part of town owned sidewalks.
- The width of sidewalks varies.
- Use of all sidewalks must remain compliant to Americans with Disabilities Act Standards for Acceptable Design (ADA).
 - Attractions to businesses which may also present obstacles to pedestrians.
 - 1. Flags that hang directly into the sidewalk
 - 2. Benches
 - 3. Clothes racks/containers
 - 4. Dog water bowls
 - 5. Movable tables/chairs
 - Flower containers
 - 7. Sandwich board (A-frame) signs

| | EY: Your input is valuable; thank you for your concise answers to these questions. (Answers will anonymous.) Responding as a:BusinessVisitor/Resident | | | |
|---|---|--|--|--|
| Questions 1-5 are for both business and visitor/resident responses: | | | | |
| 1. | Do you want businesses to be able to put tables, chairs, and/or benches on sidewalks? YES NO | | | |
| 2. | What do you NOT want to see on sidewalks? | | | |
| 3. | A. What have you observed that has caused your business difficulty related to sidewalk use? | | | |
| 3. | B. What have you observed that has caused visitors/residents difficulty related to sidewalk use? | | | |
| 4. | What are your ideas regarding the use of town owned sidewalks by businesses? | | | |
| 5. | What can the Board of Selectmen do to help ensure the safe and fair use of town owned sidewalks? | | | |
| 6. | As a business, would you pay to have use of the sidewalk? YES NO | | | |

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