

# TOWN OF LYNDON

## SELECTBOARD MEETING

March 21, 2016

6:00 PM

### Selectboard

Martha "Marty" Feltus  
Kermit Fisher  
Dan Daley

### Press

Amy Nixon  
News 7

### Public

Dawn Dwyer, Justin Smith, Rob Nutting, Joe Dauphin  
Chief Harris, Cindy Cady, Chad Pilotte, Jefferson Tolman  
Steve Gray, Mark Stewart, Dave Ceppetelli, Elijah Buss

Added Agenda Items: Wastewater Abatement

#### 1. Liquor Licenses:

Town Clerk, Dawn Dwyer, informed the Board that she received a copy of a letter sent to C.D.P. Enterprises Inc. from William Goggins, Director of the Education, Licensing & Enforcement Division of the Department of Liquor Control, regarding a hearing before the Department of Liquor Control Board to be held April 13, 2016.

Motion made by Kermit Fisher, seconded by Marty Feltus, to table CDP Enterprises, Inc., dba Phat Kats Tavern's First Class Restaurant/Bar License for Club to sell malt and vinous beverages until the next scheduled meeting on April 18, 2016 in order to receive the results of the hearing. Motion carried 3-0.

Chief Harris informed the Board that his Department has not received a lot of calls regarding Phat Kats or The Packing House Lounge. Joe Dauphin, Public Works Supervisor, is still having issues with customers parking on Depot Street after the Winter Parking Ban curfew. When the tow company is called the customers then move their cars before the tow truck gets there. It was Joe's understanding that parking notices would be displayed inside Phat Kats and he doesn't believe that has been done.

Dan Daley, Chair of the Selectboard, said they would consider the situation at the next meeting when they consider the Liquor License for Phat Kats.

Motion made by Kermit Fisher, seconded by Marty Feltus, to approve the five (5) First Class Restaurant/Bar License for Club to Sell malt and vinous beverages for Asia Restaurant LLC, Customer 1<sup>st</sup> LLC, Lyndonville Restaurant Inc. dba Lyndon Buffet, Northstar Media, Inc., and Delise Robarts dba Sweet Basil Catering, with standard conditions. Motion carried 3-0.

Motion made by Marty Feltus, seconded by Kermit Fisher, to approve the Second Class License for Club to Sell malt and vinous beverages for Moreau & Moreau dba M & M Beverage Centers, with standard conditions. Motion carried 3-0.

Motion made by Marty Feltus, seconded by Kermit Fisher, to approve the Outside Consumption Permits for Customer 1st LLC and Northstar Media, Inc. Motion carried 3-0.

#### 2. Dog Issue:

Chief Harris did a random check on Ajax, the German Shepard owned by Claudio Ardizzola & Jane Rooney to ensure they were complying with the order placed on them at the August 25, 2015 Selectboard meeting. The board placed conditions that stated that Ajax one, "must be restrained (leashed) to something with chain, etc. that is strong enough to hold the dog at all times while outside, two, when in the garage the dog "must be restrained (leashed) to something with chain, etc. that is strong

enough to prohibit the dog from leaving the space, and three, the gate for the mudroom must be “substantially reinforced and constructed so that the dog cannot leap over it or the dog must be restrained on a leash so that the dog cannot exit the space”. When Chief Harris drove by, Ajax was unleashed with no supervision on the driveway of the Ardizzola property.

Motion made by Kermit Fisher, seconded by Marty Feltus, to impose a violation fine in the amount of \$150. Cindy Cady, Animal Control Officer, brought to the Board’s attention the statement made in the August 25<sup>th</sup> letter to Ardizzola & Rooney that states “...this is the last warning letter you will receive on this matter, any further violations of the conditions will result in a fine and the Town will seize your dog”. Chief Harris will have to check with State Attorney Lisa Warren as to whether a search and seize warrant is required to seize a dog.

Cindy’s concern is that if Mr. Ardizzola gets fined and knows the dog will be picked up with a warrant, he will try to relocate the dog. This will possibly remove the dog from Lyndon but not solve the problem of the dog being dangerous. Her suggestion was that the dog be escorted to the pound until a decision could be made. Cindy made it perfectly clear that the dog could not be re-homed.

Chief Harris reiterated that he believes that his department could not seize the dog without a warrant. He wasn’t sure if the Animal Control Officer could seize the dog without a warrant by authority of the Selectboard.

Dan Daley wanted clarification that if the Town seized the dog, in Cindy’s opinion, the only option is to euthanize the dog. Cindy explained that it’s not her position to put dogs down, that this is a dangerous dog and Mr. Ardizzola doesn’t have enough control over the dog and his wife doesn’t have any control. Kermit withdrew his original motion and Marty withdrew her second to the original motion.

Motion made by Kermit Fisher, seconded by Marty Feltus, to impose the \$150 fine and seize the dog as soon as possible and impound it until further notice. Motion carried 3-0.

Chief Harris will check with the Humane Society to see if they know of a trainer that can evaluate the dog for aggression.

3. Approval of minutes:

Motion made by Kermit Fisher, seconded by Marty Feltus, to approve the March 7, 2016 minutes. Motion carried 3 to 0.

4. Approval & Signing of Orders drawn on the Treasurer:

The Board approved and signed the orders drawn on the Treasurer for weeks #11 & 12.

5. Highway Report:

At 21% through the year, payroll is 25% spent and the entire budget is 23% expended.

6. Joint Garage Discussion:

Mark Stewart, architect, explained to the board that Oscar Thayer would not be attending tonight’s meeting. Oscar is working with the subcontractors in calculating cost estimates now that the plans are at 90% completion. Mark, along with Justin Smith, met with Brad Charron, Fire Marshall, at the facility. Mr. Charron was good with the project. He did express that the paneling in the existing office space would need to be removed and replaced with sheetrock.

Mark updated the Board on the following items:

- Has a signed contract with Catamount Environmental, Inc. for the asbestos removal which will begin on March 28, 2016.
- Shared the Scope of Work document with the Board.
- Andrea Day from Dufresne Group is working on the Act 250 permit and should be mailed out on March 22<sup>nd</sup>. The Act 250 permit is needed in order to begin construction as it is a change of use.

- The water and wastewater applications have been filed. The wastewater application has a 45 day review period, but Mark doesn't anticipate any issues.
- The Scope of Work will be going out to the subcontractors that were provided by Justin Smith. This document will fill in all the blanks the subs may have.
- Mark will need to meet with Rob Nutting, Town Highway Foreman, Joe Dauphin, Village Public Works Supervisor, and Oscar Thayer from Spates Construction to go over any additional changes.
- The project has missed the first pricing deadline, but Mark is not concerned as the project has been scaled down some in the area of the salt sheds and offices.

7. WWTF Upgrade Discussion:

David Ceppetelli, project manager at Tata & Howard, updated the board on the bid opening results. Only two bids were received and both came in over budget. T Buck Construction was low bidder at \$537,000 with Kingsbury Construction being the other company. There was a third bidder but was unable to submit a bid due to issues with the bond requirement imposed by USDA. Tata & Howard contacted T Buck Construction to ascertain why the bid came in over the estimate. They were informed that T Buck only had four days to prepare the bid, therefore were unable to contact subcontractors, therefore using costs for their own work force.

The Board asked how, after removing a piece of the project, the bids came in \$100,000 over budget. Whose numbers are off? Mr. Ceppetelli explained that between contractors being busy with work and only two bids received, the bidders threw out high numbers. Tata & Howard have been in conversation with T Buck Construction and they are willing to negotiate to reduce the cost of the project. Tata & Howard has met with the construction company as well as subcontractors at the wastewater treatment facility.

Marty inquired if our operational permit would be out of compliance if any of the upgrade was not completed. Justin felt that the odor control has to happen to keep us in compliance, but that the generator would be nice but not a necessity as we do have the mobile unit.

8. Excess Weight Permits:

Motion made by Kermit Fisher, seconded by Marty Feltus, to approve the Single Excess Weight Permit for Fred Vance Trucking with approval for Justin Smith to sign on behalf of the Board. Motion carried 3 to 0.

Motion made by Kermit Fisher, seconded by Marty Feltus, to approve the six (6) Fleet Excess Weight Permits with approval for Justin Smith to sign on behalf of the Board. Motion carried 3 to 0.

Permits are for Amadon Construction Inc., Austin Construction, Inc., Scott Brown, Feed Commodities International Inc., Ron Fenoff Excavating LLC & Winterset, Inc.

9. H.O.P.E. Color Run:

Chief Harris is satisfied with the locations of the paint throwing being on private property and/or off the sidewalk (Park & Ride), proper clean-up of the event route immediately following the event and proper security. Motion made by Marty Feltus, seconded by Kermit Fisher, to accept the plan for H.O.P.E.'s Color Run to be held on April 30, 2016. Motion carried 3-0.

10. Bike Race:

Chief Harris has no issues with the Rasputitsa Gravel road race that will be running on April 16, 2016. Motion made by Kermit Fisher, seconded by Marty Feltus, to approve the Rasputitsa Gravel road race as proposed. Motion carried 3-0.

11. Set the Special Appropriation Policy:

Motion made by Marty Feltus, seconded by Dan Daley that for the 2017 budget a special appropriation petition is not required by organizations unless they requesting an increase from 2016 or are a new requesting organization. Motion carried 2-1 with Kermit Fisher voting no.

12. Stormwater Master Plan Grant:

Justin updated the Board about an offer from Kerry O'Brien to apply for a grant on the Town's behalf to begin work on a Stormwater master plan. It is an element that was included in the Town's Hazard Mitigation plan. Both Kaela Gray, Planning Director and Dan Daley, who participated in the Hazard Mitigation process, agreed that this made sense for the Town.

13. LSC Street Light Request:

Tom Archer, Director of Physical Plant at Lyndon State College (LSC), spoke with Justin in regards to a safety hazard along College Road due to the lack of streetlights for a fairly large pedestrian population, as identified by the college's safety committee. LSC would like streetlights installed on the existing poles located west of Lyndon Institute's driveway, up the hill to the intersection of College Road and Vail Hill. The question asked is does the Town want these streetlights installed as they will be located in the town highway right of way and if the Town is willing to pay for them as asked for by LSC. The cost of the lights are \$18.80 per light per month for an annual cost of approximately \$1,600. The Board would like more information before making any decisions. Justin will contact Mr. Archer.

14. Gate for Outing Club:

Justin shared photos of damage to the grounds of the Lyndon Outing Club (LOC) created by individuals spinning in the mud. The Village crew spent a significant amount of time and money to fix the same damage last year and in Justin's opinion the damage is worse this year. Justin proposed installing a gate that would be locked at 9 PM each evening. Motion made by Marty Feltus, seconded by Kermit Fisher, to investigate the means to block off LOC's grounds after 9 PM daily. Motion carried 3-0.

15. Municipal Gym Use:

Justin reported to the Board several incidents recently of unruly students from LEARN while using the gymnasium. LEARN has been allowed to use the facility, free of charge as a non-profit, for several years. They annually sign a Gymnasium Use Contract. Students have been found unsupervised, loitering either in the alcove outside the building or in the lobby and on many occasions have been loud and disruptive to the flow of traffic coming into the building. Their language is vulgar at times and last week there were two incidents where one student screamed profanity as she was running into the building and Chief Harris found three unsupervised students attempting to rip the designated parking sign out of the ground in the back parking lot near the walking path. In the past a phone call has been made to the director of the program and the behavior improves for a short period of time. The Board has asked Justin to write a letter to the program director outlining the conditions for using the facility as well as the consequences for any future violations.

16. NEKWMD Warning:

Steve Gray shared the proposed Amendments to the Northeast Kingdom Waste Management District charter. The changes include imposing a per capita fee and taxes on waste services and to replace the Australian ballot method of approving the District's annual budget. The budget would be approved by the Board of Supervisors. The Selectboard will invite Lyndon's representatives to the Waste District to attend the scheduled meeting to be held on April 4<sup>th</sup> to hear from them before the NEKWMD Board of Supervisors regular meeting scheduled for April 12, when they will be taking action on these issues.

17. AEGIS Renewable Energy's Act 248 Application Package:

Justin invited the Board to review AEGIS Renewable Energy's Act 248 application for their project on Lynburke Road. No action was required. The Town is an interested party should they choose to make comments.

18. Wastewater Abatement:

Sheila Fors has requested an abatement on her wastewater charges for the period covering December 2015 through February 2016. She had frozen pipes in her basement which she was unaware were broken due to having a dirt floor. None of the overflow went into the sewer system. Motion made by Marty Feltus, seconded by Kermit Fisher, to abate 33,000 gallons of sewer, to accommodate the average usage. Motion carried 3-0.

19. Other:

- a. Summer Road Projects – Justin asked the Board to consider which road projects they wanted to complete this summer so that he could move forward with grant applications if necessary. It was decided that Elliot Road would be a definite project in which a grant would be applied for. Other options considered were Red Brick Road, a portion of Vail Drive and a section of South Wheelock Road. The Board requested more information regarding costs before making a final decision.
- b. Community Visit Program (CVP) – Justin shared information from Jenna Whitson, Community and Policy Manager for Vermont Council on Rural Development regarding how to engage residents to set goals and directions as well as accessing resources that will help take actions on those goals. CVP would like the opportunity to work with the Lyndon community. The Selectboard will meet with the Village Trustees on March 28<sup>th</sup> to discuss the program collaboratively.
- c. Marty reported to the Board that for fiscal year 2017 the Town of Lyndon is scheduled to receive 11% more PILOT monies. This is due to towns collecting a local option tax of which 30% of the taxes collected go into the PILOT fund.
- d. Motion made by Kermit Fisher, seconded by Marty Feltus, to find that premature general public knowledge of contract details with Utility Partners will clearly place the Town of Lyndon at a substantial disadvantage. Motion carried 3-0.

Motion made by Kermit Fisher, seconded by Marty Feltus, to go into executive session at 7:49 PM to discuss Lyndon's contract with Utility Partners under the provision of Title 1, Section 313(a) 1 of the Vermont Statutes. Motion carried 3-0.

Upon coming out of executive session at 8:42 PM, no action was taken.

Meeting adjourned at 8:44 PM

Minutes taken by Dawn Dwyer

Approved by the Selectboard: March 28, 2016