

July 10, 2017 7:00PM Select Board Meeting

Present: Don Chabon, Chuck Cardillo, Danielle Fillio, Ivria Fried

Don welcomed everyone to the meeting.

Don mentioned that Terry Flynn was not present and he will be missing several meetings due to health issues. He will be out until August and wished him well. When two Selectmen are unavailable the Board can authorize the Town Administrator to act as Selectmen to sign warrants and approve payments of bills; when two Selectmen are out. She will be authorized for a period of time and it will be done from July until August. Don stated that he felt that since her appointment, Danielle has been doing a wonderful job, no transition issues, and Chuck agreed.

Don made a motion that the Board of Selectmen delegates to the Town Administrator the authority to sign all warrants and approve payment of all bills in the month of July 2017. Chuck seconded, the vote was unanimous.

Don chose to discuss the agenda and asked if there was representation from 37 Interlaken Project and there was. The agenda includes two items, policy matters and an application from 37 Interlaken for an entertainment permit. The town's Fire Chief and Building Inspector have requested an engineering evaluation of the building since it is a part of their advertised entertainment policy and since the first part of our agenda is to discuss out Entertainment and Alcohol Policies which will be very lengthy, Don suggested that they continue the application until the next meeting on July 19th at 9AM.

Don made a motion to continue the application for the entertainment license for 37 Interlaken Road until the next meeting on July 19th. Chuck seconded, the vote was unanimous.

Don continued that it was important to get input on the building as they were advertising tours of the building. Tony Guthrie from 37 Interlaken Project stated that the building tour was one small component of the event. They have some entertainment from BSO, hiking, and a barbeque.

A resident questioned the music. Mr. Guthrie said that they were having a string quartet from 10AM to 2:00PM and could certainly not amplify it.

Don said that they need to get on with the public hearing and will continue the discussion on July 19th.

Don motioned to open the public hearing to adopt the general liquor license policy. Chuck seconded, the vote was unanimous.

Don read a statement that, "it is important to note that the purpose of this hearing is to get input from license holders on the new policy. The Board does not have the intention to adopt this policy at the meeting tonight nor is it looking to shorten anyone's hours. If the Board does in fact wish to shorten hours at a later date, it will give the proper two-week notice to each licensee as required by the ABCC. The main purpose is to look at the substance of the policy and answer any questions you may have."

Joe Nejaime, owner of Nejaime's Wine Cellar in Stockbridge asked for clarification if the draft policy modifies the existing policy.

Danielle said that the alcohol license is a new policy to replace the one-page guideline from 1983.

Chuck asked what Nejaime's current hours are and Joe responded that they are Monday through Saturday from 9:00AM to 9:00PM and Sunday from 11:00Am to 6:00PM. Danielle informed him that as he is a section 15 license-holder, the Town cannot set his store hours, state law does. Chuck asked if Joe had a security camera in his store and Joe said that he did.

Kathy Jo Grover from the Berkshire Theatre Group asked what the major difference is between the old and new policy.

Ivria Fried of Miyares Harrington LLP explained that the Board did not have a traditional policy previously but instead looked at applications individually to determine hours in compliance with the statute. What they had was a guideline for how to deal with violations if there were violations with ABCC regulations.

Ivria called the new policy a "robust" policy which included security cameras for package stores, TIPS certification and BYOB guidelines. She explained that this is an attempt to get everyone on the same page. They were not looking to change hours but would like to know what establishment's current hours are. It is completely new and would replace the previous "policy" which served as a guideline for liquor license violations.

Jeff Lynch spoke on behalf of the Red Lion Inn and listed the current hours as Monday through Saturday from 9:00AM to 1:00AM and on Sundays from 10:00AM to 1:00AM. He stated that they would be opposed to a reduction in hours, especially for morning brunch services at the Inn. Mr. Lynch question was why the board would create a policy considering the ABCC statutes are in place along with regulations. He felt that the Town having their own policy would create confusion of interpretation of Board and ABCC policies. He did not believe that the Town was adding anything by having their own policy, only restating the law. He also objected to requiring violators needing post notice of violations on their windows. He felt that this should be stricken from the policy as it sends the wrong message. He also felt that for the Elm Street Market, being a package store, would find it intrusive and unnecessary to have surveillance cameras running in the market.

Danielle said that having the video cameras was not a requirement; the Town was looking for comments and opinions.

Ivria explained that having policies will enable everyone to understand what is required and provide clarity for boards and licensees.

It is not uncommon to see policies that have proposed guidelines for the Boards to utilize when considering liquor license violations. Living it open allows the Board to have flexibility in those situations that are not normal where the 1 to 3 day suspensions are not warranted. The ABCC will uphold those larger suspensions. Additional conditions in this policy help the licensees and the Board understand

what happens. One is TIPS certification; classes are not required at a State level but if the Board decides to make it a policy it would be. It enables everyone to understand what is required and does not believe it to be superfluous to have a policy. Many communities have such policies and it provides clarity.

Jeff Lynch said that with so few section 12 licensees in Town, it would be hit or miss. He did not object to the TIPS certification requirements. From the audience, Joe Nejaime objected to needing TIPS certification requirements. He took the podium and agreed that it is a good idea, but unnecessary for this good idea to morph into a regulation. He noted that he installed cameras in his store for his own reasons but to turn it into a regulation should not be necessary.

Kim Noltemy, COO of Tanglewood was very concerned regarding the BYOB portion of the policy on their campus. She stated that ABCC requirements are carefully observed and asked for continued tolerance for lawn picnickers who bring their own beverages. Tanglewood has specified areas for sale of alcohol and delineated areas for consumption and signage as per ABCC requirements. She stated that it would be difficult if not impossible to keep the lawns a regulated area based on the crowd size. She proposed that the BYOB section be deleted from the policy.

Don stated that it was not the intention to cut out lawn picnics at Tanglewood.

Mr. Cook, counsel for the BSO and Tanglewood assured the Board that they had no criticism for the policy. He also suggested that Section 8, the BYOB portion of the policy not be included in the policy.

Lisa Reynolds, representing Chesterwood took issue with outdoor service needing to be a roped off area for alcohol service. She did not feel that people would come to receptions where they had to drink in designated areas at the Chesterwood grounds. She felt they would have difficulty complying with and controlling this.

Ivria responded that the outdoor service policy specifically for section 12 licensees is taken from the AABC guidelines.

Chuck asked Ivria about removing the BYOB policy. Ivria said that it can either be removed completely (permitted everywhere), change it or prohibit it. This does not alter the outdoor services.

The Board voted to authorize Ivria to make the following changes: to delete the BYOB portion of the policy in its entirety, delete the video camera surveillance requirement and adopting the statutory hours. Ivria continued by stating that the outdoor service portion is required by the ABCC therefore the licensee's license needs to designate what areas outside will be used for alcohol consumption and containment.

With no further comments Don made a motion to continue the public hearing until the July 24th Selectmen's meeting at 7:00PM. Chuckie seconded, the vote was unanimous.

Next on the agenda was discussion of the Entertainment policy. Don said that while in the process of creating the Alcohol Policy, it was noted that the Town's Entertainment bylaw is very outdated and not in conformity with Mass General Laws. The board is looking to adopt a new Entertainment License

Policy and is would like to welcome comments on this policy. This policy will make the process of any requests for entertainment more a unified, fair, consistent process and in compliance with Mass General Laws.

Charles Kenny, Meadow Road, thanked the Select Board to have the policies on the website. Comparing the two policies, he noticed that what is in the Alcohol Policy and is missing in the Entertainment is the purpose that establishments are to be operated responsibly and to not to detract from the quality of life in the neighborhoods or in the Town in general. He felt this is a very important aspect and recommended to put the same first paragraph in the Entertainment Policy. The second thing was that in the Entertainment policy there is differentiation between one day and seasonal events. In the Alcohol policy there is also the one-day license; with distinction for commercial and non-for-profit. He would suggest the same distinction in the Entertainment policy.

Ivria responded that the liquor control act outlines that there are two types of special temporary licenses; one obtained by for profit which can only be for wine and beer only, non-profits may obtain a temporary license for all alcohols. There is not an equivalent in the entertainment policy as there is not a distinction needed based on non-profit versus profit.

Jeff Cook representing the BSO stated a minor point asking that the renewal date for both policies be on the same date of November 30th and it was agreed.

Stuart Hirschfeld, Meadow Road, asked about the requirements of having a home event. Ivria responded that if on one's own property, for family only, closed list, not for profit, you would generally not need an alcohol license on an event license.

Brian Cruet, General Manager for the Trustees of Reservation questioned the old event license falling within the normal, will a seasonal license cover added events and questioned the need to fence off an area. Ivria said that the fencing is a carryover of the Town Bylaw and the Board can omit it at their discursion. If you require a license, it is required during all hours. The Board does not need to have a specific list, general entertainment.

Danielle stated that they would make it a case by case for the annual licenses to make it fair.

Chuck stated that removing the Entertainment policy from the bylaws would make it much easier to make changes in the future.

Ivria stated that there is a billiard license and asked the board to consider a time frame on them, and how they should be established, the expense of issuing and enforcing the licenses.

Chuck made a motion to have the billiard license renewal date of November 30th also. The Board decided to eliminate the fencing requirement and decided to keep the parking requirement that was in the old policy.

Don said that the Board would work on a fee schedule and continue to the July 24th meeting.

With no further items on the agenda Don made the motion to adjourn, Chuck seconded, the vote was unanimous.