

IPSWICH SELECT BOARD
Meeting of Monday, April 5, 2021

The Select Board participated in this meeting remotely utilizing Zoom in accordance with the Governor's March 12, 2020 Order suspending provisions of Open Meeting Law and to promote public health and social distancing.

Board Members present: Linda Alexson, Chair; Dr. Tammy Jones, Vice Chair; Kerry Mackin; Nishan Mootafian; William Whitmore (present at 7:24 PM)

Also present: Anthony Marino, Town Manager; Eileen Page, Recording Secretary

With a quorum present, Ms. Alexson called the meeting to order at 7:02 PM.

Welcome/Announcements

WATER

Voluntary water restrictions have been put in place immediately due to lack of precipitation and low flow in the Ipswich River.

ARBOR DAY PROCLAMATION

- *Vote: Ms. Mackin moved to proclaim April 30, 2021 as Arbor Day in Ipswich. Mr. Mootafian seconded. The motion carried 4-0 via roll call.*

RESIGNATION

Justin Planasch has resigned from the Zoning Board of Appeals and the Board thanks Justin for his service. Anyone interested in serving on the ZBA or other boards or committees is encouraged to contact the Town Manager's office.

UPCOMING MEETINGS

The Shellfish Subcommittee will meet tomorrow night at 7:00 PM.

The Finance Committee will meet tomorrow night at 7:00 PM.

The Zoning Board of Appeals (ZBA) will meet on April 15 to discuss Essex Pastures.

The Water/Wastewater Subcommittee will meet on Thursday, April 8 at 7:00 PM.

The Government Study Committee will meet on Wednesday, April 7 at 7:00 PM.

UPCOMING EVENTS

The Shade Tree and Beautification Committee and the Waste Reduction Advisory Committee are co-sponsoring a month-long community cleanup. Special trash bags will be provided by the DPW, and residents are encouraged to use them to clean up their neighborhoods or other areas of town.

Citizen Queries

Chris Florio (44 Fellows Road) stated that at a previous meeting regarding Essex Pastures, Mr. Whitmore had questioned whether Town Counsel agreed with a letter written by Attorney Dennis Murphy. Mr. Marino was later quoted in a news article as saying that Town Counsel disagreed with Mr. Murphy, but that it was a misquote.

COVID Amendment Request for Weekday Entertainment License to Allow for Outdoor Entertainment, Heart & Soul Café, 0 Central Street

Bud Siciliano (Heart & Soul Café, Owner) petitioned for an existing entertainment license to extend outside of the café in the same manner as was done for the 2020 summer season. Heart & Soul hosts local acoustic musicians on Friday and Saturday afternoons. The café hopes to begin entertainment in late April and continue into the fall.

Callie Crosby (2 North Main Street) asked if the entertainment license would be strictly for Friday and Saturday, as she owns a business nearby and is worried about noise during work hours. Dr. Elizabeth Gooddell (2 North Main Street) shared the same concern. Mr. Siciliano responded that music would only be held on Friday and Saturday in the afternoon. Both business owners responded that the schedule would not disrupt their work, and that they wished Heart & Soul well.

- *Vote: Mr. Mootafian moved to approve the weekday entertainment license for Friday from 4 PM to 9 PM, and Saturday from 2 PM to 9 PM.*

Consent Agenda

- I. Renewal Common Victualler License, Residence at Riverbend
- II. One Day Wine and Malt Application, The Trustees of Reservations for Guided Hike at Appleton Farms and Craft Beer on Saturday 4/17/2021.

- *Vote: Mr. Mootafian moved to approve the Consent Agenda. Dr. Jones seconded. The motion carried 4-0.*

Set Annual Town Election Warrant and Ballot Questions

- *Vote: Mr. Mootafian moved to approve the warrant. Dr. Jones seconded. The motion carried 4-0.*

Town Manager Report

\$157,000 in grant money has been awarded from Streetscapes to build a canopy at the Riverwalk and make sidewalk improvements.

The full Town Meeting warrant will be published in the paper on April 21.

Town Meeting will be held on Saturday, May 15 at 9:00 AM under a tent at the High School. Electronic voting will be utilized, but parking lot voting will not be available.

Approval of Seasonal Liquor Licenses

- I. Ipswich Bay Yacht Club
- II. The Trustees of Reservations dba The Great House
- III. KPS Food Service Holdings LLC dba Ipswich Clambake
- IV. New England Country Club Management, Inc. dba Ipswich Country Club

- *Vote: Dr. Jones moved to approve seasonal liquor licenses for items 1-3. Ms. Mackin seconded. The motion carried unanimously via roll call.*

- *Vote: Dr. Jones moved to approve the seasonal liquor license for Ipswich Country Club. Mr. Whitmore seconded. The motion carried 4-0, with Mr. Mootafian recusing himself as a member of the Country Club.*

New Business

None.

Old Business

None.

Kennel Operations Hearing: Service Dog Project, 37 Boxford Road

Ms. Alexson informed residents of the procedure for conducting the hearing: the Town Manager would list the documents provided to the meeting, complainants would speak, the Animal Control Officer would speak, and the principals of Service Dog Project would speak. The Select Board would then have an opportunity to ask questions. Time permitting, the Select Board may take brief public comments, but doing so is not legally required. 45 minutes

have been allotted to the hearing. Ms. Alexson noted that the hearing was not about the mission or work done by Service Dog Project, but rather, strictly about dogs barking between 10:00 PM and 7:00 AM.

Dr. Jones asked if public comment had residency restrictions imposed on them. Mr. Marino clarified that there is no residency restriction to speak in a public meeting.

Mr. Marino listed the documents provided:

-) Petition to Request a Public Hearing regarding Kennel Operations of the Service Dog Project, dated February 13, 2021
-) Letter sent from the Office of the Town Manager to Carlene White (Service Dog Project Executive Director) scheduling a hearing, dated March 23, 2021
-) Letter sent from the Office of the Town Manager to Mark Amirault (Service Dog Project Board Chair) scheduling a hearing, dated March 23, 2021
-) Letter sent from the Office of the Town Manager to Susan and Paul Fortin (22 Partridgeberry Place), scheduling a hearing, dated March 23, 2021
-) Article II of the Ipswich Bylaws, regarding Dogs, Cats and Ferrets
-) Ipswich Police Department incident reports regarding noise complaints against Service Dog Project
-) Emails sent to Police Chief Paul Nikas in support of Service Dog Project
-) Summary and recommendation of action from ACO Megan Sousa

Susan Fortin (22 Partridgeberry Place) spoke on behalf of the 33 residents of Partridgeberry Place and Boxford Road who signed the petition to restore quiet to their neighborhoods. Ms. Fortin emphasized that the neighbors support the work of Service Dog Project, but barking has increased significantly since 2016. Ms. Fortin reported that she first met with Service Dog Project, Mr. Marino, and ACO Souza in 2018. At the time, it was suggested that the dogs be kept inside at night, but this was dismissed by Service Dog Project. In 2019, after the barking bylaw was instituted, neighbors began logging early morning barking incidences and approached Service Dog Project, but were told to speak to their attorney instead. Ms. Fortin reiterated that the neighborhoods support the work done by Service Dog Project, but would like the dogs kept inside between the hours of 10:00 PM and 7:00 AM, in compliance with the barking bylaw.

Will Safrin (30 Partridgeberry Place) stated that he and his wife have lived in the neighborhood since May 2020, and are woken up at least once a week by barking dogs. Over the last six months he has submitted 30 videos and filed 30 complaints, per guidance from ACO Sousa. He stated that there is no malice on the side of the petitioners, and that it takes a great deal of courage to bring a petition against a non-profit. The neighbors want to have an amicable, healthy relationship with Service Dog Project.

Joe Hannasch (26 Partridgeberry Place) stated that he attended the meetings held in 2018 after the barking was waking up his newborn several times a week. He stated that he installed noise-dampening blinds, air purifiers, and a noise machine in the nursery, but they still did not drown out the barking. He stated that after the meetings in 2018 there was a brief period of improvement, but that has since ceased.

ACO Sousa stated that barking complaints began in 2016, and she conducted early morning patrols to confirm the noise level. In September 2018 she held a formal meeting with Mr. Marino, Service Dog Project, and the petitioners. She suggested that the dogs be kept inside overnight. In the spring of 2019, the barking dog ordinance was passed, and the police department began responding to early morning complaints when officers were available. Dispatchers would also call Service Dog Project directly and ask them to quiet the dogs. ACO Sousa has issued one written warning and two monetary citations to Service Dog Project. To date, 175 complaints have been received by her office, 30 of which were received in the last six months.

Ms. Alexson asked what she recommended. ACO Sousa responded that she recommended the kennel be declared a nuisance, and allow a grace period for the kennel to install doors that would restrict the dogs' access to outdoors between 10:00 PM and 7:00 AM, as most of the complaints are received between 4:00 AM and 6:00 AM. She stated that the Service Dog Project must comply with the barking dog ordinance, and the Select Board consider what steps to take if noncompliance continues.

Mr. Whitmore asked when complaints are typically received. ACO Sousa responded that complaints are typically received between 12:00 AM and 6:00 AM, with the majority coming between 4:00 AM and 6:00 AM. She confirmed that most complaints have been backed up by audio/video recordings when an officer is unavailable to respond. Mr. Whitmore asked what the ramifications would be if the kennel were declared a nuisance. ACO Sousa responded that the kennel will still be allowed to operate, and will have to adhere to the barking dog ordinance. Further, they will have a 90 day timeframe to have a contractor install doors that prevent outdoor access at night, and will have to be available for 30-day check-ins. If noncompliance continued, the Select Board would have the authority to suspend the kennel license, but ACO Sousa emphasized that that was not the goal of anybody involved.

Ms. Alexson asked if being deemed a nuisance kennel would affect Service Dog Project's insurance. ACO Sousa stated that it shouldn't, as the nuisance is barking, not aggression.

Don Greenough (Volunteer Attorney, Service Dog Project) stated that Service Dog Project was present in good faith to discuss issues raised by the neighbors, but argued that if the Town were to take steps against the kennel, they would be in peril as he does not believe the petition was filed properly with the Town Clerk under Massachusetts General Law.

Carlene White (Executive Director, Service Dog Project) argued that because of the distance of her kennels from the petitioners' addresses, barking could not be heard. She stated that she had a sound study completed, and stated that the dogs only bark when they are upset, such as when neighbors are fighting. She stated that she has spent over \$200,000 over the years to have somebody monitor the kennel overnight, and that the dogs should not be penned in.

Dr. Jones asked what time the dogs are let out in the morning, and when they are fed. Ms. White responded that the dogs are free to roam as they please, and are fed at 8:30 AM and 4:30 PM, with treats at 6:00 AM. She stated that if the dogs were penned in overnight, they would be relieving themselves all over the kennel.

Mr. Whitmore asked how many times a day a Great Dane uses the bathroom. Ms. White responded that they go twice a day on a meticulous schedule. Mr. Whitmore asked why they need to go out in the middle of the night if their schedule is meticulous; Ms. White responded that sometimes they have to go in the night. Mr. Whitmore asked how allowing dogs to have the freedom to be in and out as they please factored into training regiment, as most dogs are trained to go to the bathroom at night, and then sleep until they go out again in the morning. Ms. White responded that once a dog is placed with a recipient, the recipient must take the dog out whenever they need to go as they establish their own individual routine.

Dr. Jones asked if the dogs could be closed into the kennel between 4:00 AM and 7:00 AM, as that seemed to be the most disruptive timeframe. Ms. White stated that she would not restrain the dogs.

Ms. Alexson asked what the impact on training would be if the dogs were required to stay inside from 10:00 PM to 7:00 AM. Ms. White argued that the dogs would stop behaving.

Mr. Greenough stated that he had forwarded a copy of the sound study to Mr. Marino.

Mr. Mootafian asked for clarification on whether a service dog requires going out at night once it is placed with a recipient. Ms. White responded that the dogs don't want to go out at night, because they are bonded to the recipient. Based on Ms. White's response, Ms. Alexson asked for confirmation that the dogs do not go in and out at night after being placed with a recipient. Ms. White responded that the dogs must be let out as they indicate to their owners.

ACO Sousa gave her final comments saying that the complainants are looking for the dogs to be kept inside from 10:00 PM to 7:00 AM, and other kennels in town are able to comply with the barking dog ordinance. She noted that if a dog at another kennel needs to go out in the night, they are accompanied by a person, and brought back inside. She stated that nothing being asked of the Service Dog Project was unreasonable.

Ms. Alexson stated that the Board would reconvene on April 20 to deliberate on the matter.

- *Vote: Dr. Jones moved to close the hearing. Mr. Mootafian seconded. The motion carried unanimously via roll call.*

Pavilion Beach Resident Only Access Reconsideration

Due to COVID, Pavilion Beach was restricted to residents only for between Memorial Day and Labor Day in 2020. The Select Board has received emails from the public asking for the same action to be taken in the summer of 2021.

Chief Nikas reported that a temporary officer was stationed at Pavilion Beach full-time last summer to enforce the resident-only access, but the same flexibility will not be available this year due to funding. He does anticipate in-person enforcement being possible on the weekends.

Ms. Alexson asked how resident status was determined last year. Chief Nikas responded that when cars didn't have a Crane Beach or transfer station sticker, officers were able to run license plates. Summer residents were able to show proof of a lease to obtain a beach sticker.

Mr. Whitmore stated that he is in favor of keeping the beach open to the public on weekdays.

Ms. Alexson asked the Board how they felt about installing portable toilets for the summer to address issues of visitors relieving themselves in public.

Dr. Jones stated that if there were no flooding or elevation concerns, she was in favor of it.

Mr. Marino reported that there have been issues with teenagers flipping the toilet houses over in the past, and they would need to be securely tethered.

Michelle Vaillancourt (1 Abbott Lane) stated that she is a strong advocate of public access to coastline. She also stated that as a parent she is in favor of installing portable toilets.

Chris Fabbri (Hillside Road) expressed concerns about capacity, particularly in the parking lot where children have had close-calls with cars. He argued that if the beach is restricted to residents, there will be fewer policing issues. He also spoke in favor of portable toilets, stating that he has seen people relieve themselves in the woods and marsh around Pavilion.

Kathy Stringer (3 Bayview Road) spoke in favor of the portable toilets, and noted that she finds herself picking up litter constantly as there are no trash bins at the beach.

- *Vote: Mr. Whitmore moved to restrict Pavilion Beach to residents only on the weekends and holidays from Memorial Day through Labor Day. Dr. Jones seconded. The motion carried unanimously via roll call.*

Beach Sticker Revocation Appeal

Elizabeth Capello (23 Ipswich Woods Drive) and her daughter Meighan Rock (Brookline) appeared before the Board to appeal the revocation of Ms. Capello's 2021 beach sticker. The sticker was revoked after it was transferred from Ms. Capello's car onto a non-resident car to gain access to Pavilion Beach. Ms. Rock explained that Ms. Capello transferred her Crane beach sticker to another car to allow for one group to travel to the beach, while she traveled in her own car with a transfer station sticker. Ms. Rock stated that this was done to allow the family to travel to the beach in a COVID-safe way, as Ms. Capello is high-risk. Ms. Capello paid the associated fine, and is seeking for her sticker to be reinstated.

Mr. Whitmore stated that he was somewhat sympathetic, but the group had other options for getting together, such as making multiple trips or gathering elsewhere. He expressed concern for setting a precedent of COVID-

exceptions. He noted that Ms. Capello can still utilize the beach this summer in many forms, such as visiting Pavilion, paying to park at Crane, or becoming a member of the Trustees of Reservation to get a beach sticker.

Ms. Alexson agreed, noting that the regulations surrounding beach stickers are very clear.

- *Vote: Dr. Jones moved to deny the appeal. Mr. Whitmore seconded. The motion carried unanimously via roll call.*

Water Use Mitigation Program (WUMP) Discussion

Jim Engel (Water & Wastewater Subcommittee Chair) presented the new proposed WUMP. The interim WUMP was adopted on October 5, 2020 and is applicable to residential projects adding one or more bedrooms and all non-residential projects. The residential fee is \$1,500 per bedroom, and the non-residential fee is \$13.50/gallon/day. Exemptions are available for the Ipswich Public Schools and municipal projects, as well as dwellings adding to the subsidized housing inventory (SHI). Revenue taken in is placed in a segregated WUMP reserve account to be used for water reduction efforts. The proposed WUMP would apply to all new and existing customers whose permitted activity places new or increased demand on the water system. There is a \$50 application fee, and an additional fee of \$100/gallon/day for the net use increase.

Ms. Alexson asked how fees are determined under the proposed WUMP. Mr. Engel used an example of a swimming pool, saying the WUMP Administrator would determine the expected additional water demand, and multiply by \$100 per gallon. New dwellings, however, would be based on averages. For example, the average household has 2.38 people, and the average resident uses 45 gallons of water per day. The equation would be as follows: 45 gallons x 2.38 people = 107 gallons per day, x \$100 per gallon = \$10,710 (WUMP fee). Ms. Alexson asked if it would be possible for a customer to pay a reduced or no fee depending on their water usage. Mr. Engel responded that it was not possible in the case of a new customer, but existing customers could help offset their fee by installing low-flow fixtures in their home.

Mr. Whitmore doubted the efficiency of the program, noting that rather than reducing water use, developers will be able to pay their way out of efficiency.

Mr. Mootafian asked if the fee was annual or one-time. Mr. Engel responded that it was a one-time fee. Mr. Mootafian asked if a WUMP fee applies to the construction of a room that has no impact on water, such as a screen porch. Mr. Engel responded that the Subcommittee will be compiling a list of building activities that by their nature have no water impact, such as sheds or fences. Mr. Mootafian asked what would happen if a family added a bedroom, but the number of family members did not change, thus no increase in their water usage. Mr. Engel responded that the project would still qualify for a WUMP fee, as it creates the potential for increased water use. He used the Symes development as an example, noting that while the Town is aware of how many bedrooms there will be, there is no way to know how many individuals will occupy them.

Ms. Mackin noted that the WUMP structure incentivizes the construction of 40B housing, and that an ascending block structure would help address many issues raised.

Mr. Whitmore argued that a swimming pool should constitute an annual fee, or a stipulation that the water to fill the pool is brought in from another source.

Helen Weatherall (44 Fellows Road) stated that the WUMP was developed in response to a citizens' petition for a building moratorium.

Beach Sticker Revocation Appeal (continued)

Meighan Rock (Brookline) rejoined the meeting to ask if her mother would still be allowed to park in the Ipswich resident lot at Crane Beach. Mr. Marino stated that without a resident beach sticker she would need to park in the

general lot. Ms. Rock asked that the Select Board consider removing the hearing from their appeal process, as it seemed there would be no leniency or exceptions given for sticker violations.

Discuss/Vote Recommendations on Town Meeting Warrant Articles

ARTICLE 16: Planning - Inclusionary Housing Amendments

Submitted by: Planning Board

- *Vote: Dr. Jones moved to support the article. Ms. Mackin seconded. The motion carried unanimously via roll call.*

ARTICLE 17: Great Estate Preservation Development (GEPD) Amendments

Submitted by: Planning Board

- *Vote: Dr. Jones moved to support the article. Ms. Mackin seconded. The motion carried unanimously via roll call.*

ARTICLE 18: Water Demand Minimization Amendments

Submitted by: Planning Board

- *Vote: Ms. Mackin moved to support the article. Dr. Jones seconded. The motion carried 3-2 via roll call, with Mr. Mootafian and Ms. Alexson opposed in favor of a RATM.*

ARTICLE 19: Energy Efficiency Amendments

Submitted by: Planning Board

- *Vote: Ms. Mackin moved to support the article. Dr. Jones seconded. The motion failed 2-3 via roll call, with Ms. Alexson, Mr. Mootafian, and Mr. Whitmore opposed.*

Discuss/Vote Environmental Policy

Ms. Mackin proposed an amended version of her draft environmental policy, removing the call for the establishment of a committee that would screen all Town projects for adverse environmental impacts. She proposed that it be adopted as Town policy.

Ms. Alexson asked if the policy had been vetted by the Climate Resiliency Committee. Ms. Mackin responded that it had not been, as the policy does not focus strictly on climate resiliency. Ms. Alexson expressed concern that the policy was too vague, citing that it calls for “the Town” to review projects, but not specifically who would be involved in the review. Ms. Mackin stated that she had originally proposed having a subcommittee of the Strategic Planning Committee to design the committee mentioned in her original proposal, but that the policy should be adopted first. Ms. Alexson responded that she would like input from other boards and committees before adopting the policy.

Mr. Whitmore stated that he does not see a strong need for the policy, as environmental oversight is already provided by groups both in and out of the community between the Conservation Committee Design Review Board, Climate Resiliency Committee, MEMA, and state and federal regulations.

Dr. Jones agreed that the policy was a good idea, but would like to see input from other committees.

Miscellaneous & Correspondence

Mr. Marino notified the Board that there was a language change in Town Meeting Warrant Articles 14 and 15 while they were under review by the Finance Committee

- *Vote: Mr. Mootafian moved to maintain the Board's original vote on Article 14. Dr. Jones seconded. The motion carried unanimously via roll call.*
- *Vote: Mr. Mootafian moved to maintain the Board's original vote on Article 15. Dr. Jones seconded. The motion carried unanimously via roll call.*
- *Vote: Mr. Mootafian moved to adjourn. Dr. Jones seconded. The motion carried unanimously via roll call.*

The Select Board adjourned at 11:13 PM.

*Respectfully submitted by Eileen G. Page
04.06.2021*