

Town of Rockport
BOARD OF SELECTMEN MEETING
Tuesday, September 17, 2013

A meeting of the Rockport Board of Selectmen was held on Tuesday, September 17, 2013 with five selectpersons, the Town Administrator and the Asst. to the Town Administrator.

7:00 Meeting Called to Order

Pledge of Allegiance and Moment of Silence

Selectperson Wilkinson moved to add an item to tonight's agenda to grant permission to Boy Scout Troop 20 to have their annual cookout at Long Beach, Seconded by Selectperson Sheedy, Vote: 4-0, Selectperson Lucas was not present for vote.

Motion to add agenda item to agenda: Boy Scout Troop cookout
Motion Approved

Approval of Minutes of August 15, 2013: Selectperson Wilkinson moved that the Board of Selectmen approve the minutes of August 15, 2013, seconded by Selectperson Murphy, Vote: 4-0.

Approval of 8/15/13 Minutes
Motion Approved

Approval of Minutes of August 20, 2013: Selectperson Murphy moved that the Board of Selectmen approve the minutes of August 20, 2013, Selectperson seconded, Vote: 4-0.

Amendment: On page 7 the minutes indicate that Chairperson Battistelli spoke to an appraiser, amend to state that there have been discussions with appraisers. Selectperson Wilkinson abstained as she was not present at the 8/20/13 meeting.

Approval of 8/20/13 Minutes
Motion Approved

Approval of Minutes of September 3, 2013: Selectperson Murphy moved that the Board of Selectmen approve the minutes of September 3, 2013, Selectperson Wilkinson seconded, Vote: 3-0, Selectperson Sheedy abstaining as she was not present at the 9/3/13 meeting.

Approval of 9/3/13 minutes
Motion Approved

Eagle Scout Recognition: Chairperson Battistelli read the acknowledgement to Rowan Lambert. Rowan described his project; he said he used lumber provided by Ace Hardware to build five picnic tables, then the tables were taken to Thacher's Island. The existing tables at Thacher were in need of repair. The new tables were stained at Thacher's Island to protect them from the weather. Rowan is a senior at Rockport High School.

Eagle Scout Recognition
Rowan Lambert

Selectmen Updates and Liaison Reports: Selectperson Sheedy mentioned the Finance Committee meeting on Long Beach at the

Selectmen Updates and Liaison Report

Community House last night. Selectperson Murphy said the Finance Committee did an excellent job keeping it on track and as simple as possible given the complexity of the issue.

Chairperson Battistelli stated that HarvestFest is being held on 10/19/13 this year; a seafood throwdown is planned again. The Board of Selectmen has been invited to participate as judges again this year.

Public Comment Period: Toby Arsenian 95 Granite Street, said two weeks ago he complained about signs in town for movie at the Tool Company. He said he asked if permission had been granted, and asked if the town received any funds for this movie. He said he received no answers to his questions. He said he has been assured that in the future signs will conform with the by-laws. The Town Administrator stated that answers were given to Mr. Arsenian at the last meeting that the filming was on private property and that approval was not obtained for the signs. M. Vieira said the production coordinator visited town hall, and was advised that they must follow the procedures in the future. Chairperson Battistelli said some boats were used that were owned by Rockport residents and the residents earned revenue. T. Arsenian said the rules apply differently to those with money. He commented on the Long Beach meeting held last night, he stated that the Finance Committee put a lot of work into the presentation. A bridge lease for 1 year or 2 years was discussed, information on FEMA and on the sediment study are necessary. He stated that the Finance Committee also gave very bad advice, that if market rates are charged at Long Beach then there will be sufficient funds to finance the seawall. He stated a 2/3 vote at Town Meeting would be necessary to approve funds to finance the seawall. He stated that the costs of the seawall will have to be recovered in the lease amounts. Selectperson Murphy said it was clear at last night's meeting that the lease amounts would have to be increased.

Ward Talbot, 34 Old County Road, stated that since 2007 six studies have been performed on the seawall, two were paid for by the Town of Rockport, two were paid for by the LBIA, and two were donated. He said there is a lot of information but the question of how the seawall is going to be paid for remains. He stated that at meetings with Coastal Zone Management we were told that legislative leaders would get back to us regarding state or federal aid. The Town Administrator said this is being pursued.

Town Administrator's Report: M Vieira briefed the Board of Selectmen on a few items: 1) upcoming Board of Selectmen meetings are scheduled for this Saturday, 9/21 at 9:15am and next Tuesday, 9/24/13 at 7pm. 2) The performance evaluations are complete; they all met the required deadline.

Public Comment
Period:

Town Administrator's
Report

They will be reviewed by the Personnel Board, then the Board of Selectmen will review them. 3) Town Meeting went very well, including the voter booklets, 4) CIPC projects are underway that were approved at town meeting. 4) there is a Selectmen Association training on 10/5/13 sponsored by Mass Municipal. 5) A flood map meeting was held on 9/11 with 13 attendees (from the DPW, Planning Board, Building Inspector, Finance Committee, Conservation Commission, and the Board of Selectmen) regarding the proposed changes. He said that 12 out of 13 attendees voted to move forward with the appeal. The Town Administrator sent a reserve fund transfer to the Finance Committee; she has prepared a purchase order detailing the scope of services so the engineers can move forward. 6) The flag lowering policy is in draft format, this will ensure consistency for all town buildings.

Toby Arsenian, 95 Granite Street, spoke about the FEMA flood maps and suggested that the consultants be charged with holding a public meeting to hear from affected residents.

7:40 Action List

Appointment of Rob Liebow to the Economic Development Committee: Selectperson Wilkinson moved that the Selectmen appoint Rob Liebow as a member of the Economic Development Committee, Selectperson Murphy seconded, Vote: 5-0.

Appointment of Philip Crotty to the Rockport Harbor Advisory Committee: Selectperson Lucas moved that the Selectmen appoint Philip Crotty as a member of the Harbor Advisory Committee, Selectperson Murphy seconded, Vote: 4-0, Selectperson Sheedy abstaining as she was not present at interview.

Nomination of Gail Zeman to the Thacher & Straitsmouth Islands Town Committee: Selectperson Murphy nominated Gail Zeman as a member of the Thacher & Straitsmouth Islands Town Committee, seconded by Selectperson Sheedy, Vote: 5-0.

Nomination of Matt Cegelis to the Rights of Way Committee: Selectperson Sheedy nominated Matt Cegelis as a member of the Rights of Way Committee, seconded by Selectperson Murphy, no vote tonight, this will be on subsequent agenda. Mr. Cegelis stated that he resides at 24 School Street, he visited Rockport for many years and moved here in June of 2013. He stated that he has attended three Rights of Way Committee meetings and has reviewed some historical minutes. He said he enjoys hiking and walking and would

Action List

Appointment of Rob Liebow to Economic Development Comm. Motion Approved

Appontment of Philip Crotty to Harbor Advisory Comm. – Motion Approved

Nomination of Gail Zeman to Thacher & Straitsmouth Islands Town Comm. Motion Approved

Nomination of Matt Cegelis to the Rights of Way Committee No vote taken, on subsequent agenda.

like to work to protect this resource. He recommends the website is a great resource and signage is important.

Hiring Approval for three DPW workers
Motion Approved

Hiring Approval for Three DPW Workers: Selectperson Wilkinson moved that the Selectmen approve the hiring of a Water & Sewer Field Crew Specialist, a Water Treatment Plant Specialist, and a Wastewater Treatment Plant Specialist for the Department of Public Works, seconded by Selectperson Murphy, Vote: 5-0.
These vacancies are due to staff retirements; they are not new positions.

Approval of Rockport HarvestFest
10/19/13
Motion Approved

Approval of Rockport Harvestfest: Selectperson Lucas moved that the Selectmen grant permission to the Rockport Festivals Committee to hold the annual Rockport Harvestfest on Saturday, October 19, 2013 in downtown Rockport from 10AM-6PM, seconded by Selectperson Murphy, Vote: 5-0. Murphy recommended that someone from the committee come back to a Board of Selectmen meeting after the HarvestFest for an update on the event.

Grant Agreement for Action, Inc.
Motion Approved

Grant Agreement for Action, Inc.: Selectperson Murphy moved that the Board of Selectmen approve and sign a grant agreement with Action, Inc., for \$4,000 with \$3,000 towards benefit services, housing assistance, and other safety net services for Rockport residents and \$1,000 towards the homeless shelter, seconded by Selectperson Sheedy, Vote: 5-0.

Street Performer License for Pierce Strumpf – no vote taken

Street Performer License for Pierce Strumpf: applicant was not present.

Agreement with Todd Oil, Division of Rose's Oil Service
Motion Approved

Agreement with Todd Oil Division of Rose's Oil Service, Inc.: Selectperson Wilkinson moved that the Board of Selectmen approve and sign an agreement with Todd Oil Division of Rose's Oil Service, Inc. to expire on June 30, 2014 for number 2 fuel oil at the lowest price variable rate established on the Global Companies Boston Revere terminal on the date of delivery and fuel burner service at \$110 per hours on regular workdays and \$165 per hour on weekends and holidays, Selectperson Sheedy seconded, Vote:5-0.

Agreement with Eastern Minerals for road salt
Motion Approved

Agreement with Eastern Minerals, Inc.: Selectperson Lucas moved that the Board of Selectmen approve and sign an agreement with Eastern Minerals, Inc. to expire on September 17, 2014 for road salt at a fixed price of \$45.50 per ton, Selectperson Murphy seconded, Vote: 5-0.

132 Long Beach Lease, transfer of ownership
Motion Approved

132 Long Beach Lease: Selectperson Murphy moved that the Board of Selectmen approve and sign a lease for 132 Long Beach with Lee A. Griffiths and Doreen Hing to reflect a transfer of ownership, Selectperson Wilkinson seconded, Vote: 5-0.

Selectperson Sheedy moved that the Board of Selectmen to confirm and approve the permission granted by the Chairperson for Rockport Boy Scout Troop 20 to hold its annual cookout on Long Beach on 9/15/13, seconded by Selectperson Murphy, Vote: 5-0.

Chairperson Battistelli said it's in the regulations that if it was over 12 people must come before the full board for a vote. Chairperson Battistelli said perhaps requests of this type should be delegated to the Town Administrator. The Town Administrator said she couldn't have approved this, they didn't meet the deadline; the request was made on Friday for a Sunday cookout. Selectperson Murphy said we should have a workshop to discuss some of the policies to delegate to the Town Administrator's office.

Approve permission granted by Board of Selectmen Chair to Boy Scout Troop 20 to hold annual cookout on Long Beach on 9/15/13, they didn't request permission in timely manner
Motion Approved

8:10 Discussion Items

Bearskin Neck Shop Owners Concerns: Chairperson Battistelli said the Street Performer Policy was last revised in 2012. That change had to do with requiring an individual under the age of 14 to have adult supervision. Some complaints of sound and duration of performing have been received. She reminded the group to state their name and address if they wish to speak and please be respectful.

Discussion Items

Bearskin Neck Shop Owners Concerns
Re: street performer licenses

Selectperson Lucas stated that she owns a shop on Bearskin Neck but doesn't believe that this is a conflict for her; she doesn't work there herself and there is no street performing being conducted at her shop.

Daniel Desmond, 6 Middle Road, Asian Inspiration, 7 Bearskin Neck, said two people in another shop were given street performer's licenses, the duration and noise level are concerning. He stated that thirty five people have signed the letter joining Mr. Desmond in this complaint. He tried to resolve this with the neighbor, but it hasn't been effective. He stated that many shops play music but nothing like this, he stated individuals generally need to step into a shop to hear the music. The rest of the shops don't play music loud enough so it can be heard if you walk by. They have spoken to him several times before they received the street performer's license; he spoke to Officer Soares seeking assistance. The level of the music will go down for 1-2 days, then it goes back up again. In the meantime they're calling the police when the noise is loud. Then two street performer licenses were issued; he doesn't agree that shop owners should receive street performer licenses. When individuals are forced to listen to amplified music for 10-12 hours a day, it's a bit much. The volume is unacceptable. He stated that he is asking that the Board of Selectmen revoke those Street Performer Licenses or move the location of the license.

Leslie Asare, 25 Bearskin Neck, said she is frustrated and angry; she has had her business on Bearskin Neck for 17 years. The neck was quaint and it's nice to offer different shops and products. She stated this is flaunting the by-laws, we are heading toward a Revere beach situation; there are racks of items outside. Permits for outdoor display permits were initiated – this was a big mistake. Give them what they want down there seems to be the message. M. Vieira said eight warnings have been issued on Bearskin Neck this year; there have been fines to two businesses for repeated violations and three complaints have been received by the police. Chairperson Battistelli recommended the Board of Selectmen review this policy this winter. She said she has heard both negative and positive comments about the music. Selectperson Murphy recommended that the police need to be called every time there is a complaint; if policies are not being followed, it needs to be addressed. L. Asare said R. Lesch's replacement was designated to walk and patrol the neck repeatedly. She said she doesn't call the police anymore because she's given up. Selectperson Wilkinson said there may be a disconnect here; she said we need to verify that the police officer has been assigned. Selectperson Wilkinson said the intent of the street performer's license was that if someone was walking down there they would have to go within a very close proximity to hear the music; it was not to be amplified. Selectperson Lucas said if every store received a street performer's license, that isn't what it was meant for. Selectperson Murphy stated he was under the impression that street performer licenses were designated for the top of Bearskin Neck, Dock Square, and Barletta Park.

Sergio Espinoza stated he was hoping to add his culture to Bearskin Neck. He stated that he applied for street performer licenses to be able to play music outside. He is disappointed that his neighbors call his music noise. He said he didn't come here to make his own rules; he has complied with all requirements. He applied for his street performer's license before he played any music outside. He said the second street performer that received the permit is back in school and isn't performing now. He said he received a copy of the complaint as well; many of the people that signed the complaint signed for him as well. He said he has received much support from the people who signed the complaint. He is a new legal business in Bearskin Neck; in two months he said he did everything he was supposed to do. He said when he applied for his permit he said he was going to use a small boom box. He said the police say they have to come when they receive complaints, when they ask him to turn the volume on the music down. He said he didn't come here to argue with anyone.

Selectperson Lucas said it's been her experience that when someone walks by the shop, they aren't bothered by the music. But if the purpose

of the music is to sell the products that makes this different, because that would open up a problem for the permits.

Chairperson Battiselli stated that it's unusual to have two street performer licenses for one address. She commented that people should only be hearing the music in one shop if they're in that particular shop.

Bearskin Neck Shop
Owners Concerns
Re: street performer
licenses

Selectperson Sheedy stated that she recalled thinking that the two street performers at this location would be playing together. The Town Administrator stated that permits cannot be revoked without a public hearing to deny, suspend or revoke with a 10 day notification before the hearing. There are three specific findings: public nuisance, public health, or public safety.

Selectperson Murphy asked if Mr. Espinoza would consider playing the music at Dock Square or at the top of Bearskin Neck.

Chairperson Battistelli said this board will commit to review this policy.

P. Goodwin, 6 North Road, said Mr. Espinoza has revealed some holes in the process. He said he sent a letter to the Board of Selectmen which he never got a response to. The street performer's policy said under approved locations, end of Bearskin Neck and Dock Square; these are the only two locations where Mr. Espinoza can play his music. He said as Selectperson Lucas has pointed out if a permit was requested and issued to bring people into a specific shop, we have a signage by-law problem. The common element ordinances, rules, and policies are unenforceable, these regulations are randomly located. He recommends that the town have an employee whose sole function is to patrol the downtown area, including Bearskin Neck, to enforce the many rules and regulations. Another option would be to have the parking meter officers oversee this as they are regularly patrolling these areas anyway. He recommends the consolidation of the town's ordinances, rules, regulations, by-laws, policies into at most two covers. They should be enforceable and officials should be given the tools to enforce them.

Terry Lannon, Bearskin Neck, said he bought a building on the Neck. He said we should ask what the customers want. We are in a global market and a global culture. He said he could complain about a lot of things down on Bearskin Neck; but people should just sit down and be able to talk about these things.

Faith Girdler, Jamaica Plain, said she knows Mr. Espinoza and believes he's doing a lot to enhance the diversity on the neck. You won't want an abandoned town here. He's a musician; he needs to bring customers into his shop. She said she would hate to see him driven out of his business.

Bearskin Neck Shop
Owners Concerns
Re: street performer
licenses

Many of the shop keepers said they love the music. He's very respectful of his neighbors.

Selectperson Wilkinson asked that until the end of this permit season (10/31/13) the music should not be heard outside the store and that the locations for the Street Performer's license would be the end of Bearskin Neck or Dock Square because this has bothered some people. She said the street performer's license was not intended to draw people into the businesses but was intended so people could enjoy music downtown if they chose.

S. Espinoza said even if he doesn't agree, he will comply with the request. He said he is a peaceful person. He said please don't ask him; just tell him what to do. He inquired if he can play music inside his store to sell his instruments.

Chairperson Battistelli said the Board of Selectmen doesn't provide permission for what a business owner can do inside their business. She recommended that Mr. Espinoza visit town hall and meet with the Asst. to the Town Administrator to be sure both parties are clear on the agreement going forward.

Selectperson Sheedy said when Mr. Espinoza came in initially for the permit, she didn't see or hear anything about amplification and she didn't understand that both individuals were planning on playing individually. She said the board's decision was based on his presentation, and there was some miscommunication.

Other Business/Announcements

9:20 Selectperson Murphy moved to adjourn, seconded by Selectperson Wilkinson, Vote: 5-0.

Warrant signed:

Warrant signed for the Fiscal Year 2013 Payroll and Expenses for the week of 9/19/13 in the amounts of \$471,125.01 and \$1,542,675.40 respectively.

Items Signed:

Long Beach Lease, Lee Griffiths and Door Hing, Lot #132
Grant Agreement, Action, Inc.
Service Agreement - Todd Oil
Service Agreement - Eastern Minerals
Common Victualler's License, Hula Moon, David Mock