

**SELECTMEN'S MEETING
TOWN OF ACTON
JUNE 28, 2012 7PM**

SALUTE TO THE FLAG

1. APPROVAL OF AGENDA:

Bill Shields made a motion to approve the agenda as written; seconded by Ed Walsh. All present in favor. Motion carried.

2. APPROVAL OF MINUTES OF LAST MEETING:

Bill Shields made a motion to approve the agenda as written; seconded by Ed Walsh. Vote was unanimous. Motion carried.

3. OLD BUSINESS:

None.

4. NEW BUSINESS:

A. MASS GATHERING PERMIT:

The Selectmen reviewed a mass gathering permit from Vacationland Volkswagen. The Volkswagen Association will be holding their 3rd annual event at the Acton Fairgrounds on Sunday, August 5th, 2012. Chairman Kryzak stated the Town had received the required proof of insurance and \$100.00 fee. No further discussion. Bill Shields made a motion to allow and sign the mass gathering permit, seconded by Ed Walsh. Vote was unanimous. Motion carried.

B. CEO KEN PAUL – LETTER OF NO ACTION:

CEO Ken Paul explained to the Selectmen the surroundings around 10 Hemlock Drive, Tax Map 146 Lot 017, and the proposed letter of no action. Mr. Paul explained the history with the septic system design, septic permits and building permits that were issued by the Town back in 1985 and 1986. Mr. Paul continued to explain the circumstances around the current setbacks, the legalities of the no action letter and that fact that the mortgage company realized this after the closing had been completed; thus requesting the letter by the Town. After a brief discussion, Bill Shields made a motion to accept the recommendation of the CEO and sign the June 28th, 2012 letter of no action, seconded by Ed Walsh. Vote was unanimous. Motion carried.

C. TOWN HALL WATER BREAK:

CEO Ken Paul discussed the standings of the water situation at the Town Hall. Approximately two weeks ago, while the Town Hall was closed, a pipe broke in the upstairs kitchen area. The water ran for several hours before staff arrived. CEO Ken Paul has been working closely with the Town's insurance adjuster and Service Pro. At the time of the meeting, Service Pro was scheduled to come in over the next couple of days, open up some walls, place fans and dehumidifiers to try to dry out the area, steam clean the affected rug areas and try to better assess the damage. CEO Paul listed out his concerns ranging from damaged drywall to mold. CEO Paul will continue to work with Service Pro and report back to the Board an update as to what might need to happen next.

D. SIGN ANIMAL WELFARE CONTRACT:

Chairman Kryzak reviewed the 2012-2013 Animal Welfare contract as presented by The Animal Welfare Society, Inc in West Kennebunk Maine. The contract is based on the population of the Town as of the 2010 census x \$1.258. The total for the Town of Acton is \$3,144.40. This agreement regulates the services between the Shelter and the Town of Acton.

E. APPOINTMENTS:

The following appointments were signed by the Selectmen, after being moved by Selectmen Bill Shields, seconded by Ed Walsh. Votes were unanimous. Motions carried.

Steve McDonough, Deputy CEO/LPI – Expires June 30th, 2013

Robert Anderson, Constable – Expires June 30th, 2013

William Catanesye EMA Director – Expires June 30th, 2013

William Catanesye, E-911 Addressing Officer – Expires June 30th, 2013
Lorraine Yeaton, Representative to SMRP – Expires June 30th, 2013
Thomas Cashin, Representative to SMRP – Expires June 30th, 2013
Gavin Mahoney, Planning Board Alternate – Expires June 30th, 2013
Thomas Cashin, Planning Board – Expires June 30th, 2015
Yoli Gallagher, Planning Board – Expires June 30th, 2014
Jessica Donnell, Planning Board – Expires June 30th, 2014
Robert Smith, Planning Board Alternate – Expires June 30th, 2013
Daniel Archambault, ZBA Alternate – Expires June 30th, 2015
Frank Verock, Conservation Committee – Expires June 30th, 2015
Wesley Ham, Conservation Committee – Expires June 30th, 2015
Carl Davis, Mary Grant Committee – Expires June 30th, 2013
Eric Gallagher, Mary Grant Committee – Expires June 30th, 2013
Barbara Seckar, Mary Grant Committee – Expires June 30th, 2013
Elaine Beck, Policy Committee – Expires June 30th, 2013
Debbie Casey, Policy Committee – Expires June 30th, 2013
Steve Casey, Policy Committee – Expires June 30th, 2013
Virginia Shea, Policy Committee – Expires June 30th, 2013
Jeanne Achille, ZBA Alternate – Expires June 30th, 2015
Vicki Erickson, Health Officer – Expires June 30th, 2013
Steven Casey, Zoning Board of Appeals – Expires June 30th, 2015

Chairman Kryzak notified the audience that the appointments just signed were all individuals who currently served on those same committees and showed interest in being reappointed. He also indicated at the next meeting, on July 26th the Board would announce a list of committees in which there were openings on.

F. PERSONNEL POLICY AMENDMENT:

Chairman Kryzak discussed the proposed changes in the Town’s personnel policy, beginning on July 1st, 2012, which affects the amount of flex times to 5 per fiscal year. The only changes are in Article X Flex Time, which now reads:

ARTICLE X - FLEXIBLE TIME OFF

- A. *Paid flexible time off may be used for illness or physical incapacity of such a degree as to render the employee unable to perform the duties of his/her position unless the employee is capable of other work in his/her division and assigned to such other work; or for personal medical or dental appointments; or to care for members of the employee’s immediate family affected by serious illness, or for bereavement. It may also be used as personal time for matters the employee does not wish to disclose.*
- B. *Paid flexible time off accrual for full-time employees shall be five (5) days granted on July 1 of each fiscal year. Any unused flexible time shall expire as of June 30 of each year.*
- C. *All employees shall be eligible to use flexible time off after thirty (30) days of service with the Town.*
- D. *Flexible time off usage shall be recorded regularly by the Town Treasurer. The Town Treasurer shall review all flexible time off records periodically and shall investigate any cases which indicate abuse of the privilege. Flexible time off shall under no circumstances be bought back. Flexible time off requests of more than three (3) consecutive scheduled work days requires approval by the Department Head.*

Bill Shields made a motion to accept the changes in the personnel policy as written regarding flexible time; seconded by Ed Walsh. Vote was unanimous. Motion carried.

G. GYM KEY CARDS / CLOSURE WEEK OF JULY 1ST:

Selectmen Bill Shields explained the new key cards at the gym and the cost of them. They are \$4.00 each and will be charged in addition to the membership fees. The gym will be closed the week of July 1st so that the new key readers can be installed.

H. ACTION ON LIQUOR LICENSE (KB ENTERRPISES):

Selectmen Shields opened the discussion by presenting a letter he had composed with his recommendations the Board take in regards to action on the liquor license application by KB Enterprises. Mr. Shields read the letter aloud, which stated:

June 28, 2012

Department of Liquor Licensing and Inspection

Attention: To Whom It May Concern

The Acton Board of Selectmen has decided to deny the application for a liquor license from KB Restaurants Enterprises Inc., as submitted by William Palladino. , Parts 1 A and C.

The denial is based on Title 28A, Part 3, Subpart 1, Chapter 27For example, regarding the character of Mr. Palladino, he has bounced checks, he has the habit of not paying his taxes when due, and Mr. Palladio’s behavior during his liquor license hearing was terrible.

With regard to the manner in which Mr. Palladino has operated his business, corporate dissolution is his habit, such as the following dates that were periods he operated without a legal corporation:

9/05/2007 to 10/29/2007

9/29/2009 to 6/11/2010

9/28/2010 to 5/18/2012

Further, there is a long list of York County Sheriff’s department visits for problems. The Sheriff has also expressed his concerns regarding the motorcycle club “the Diablo’s” and their alleged use of “Willy’s as a club house.

Taking all these various issues together, the Acton Board of Selectmen has decided to deny the license to Mr. Palladino. Ted Kryzak

William Shields

Ed Walsh

Acton Board of Selectmen

Selectmen Shields indicated he would like to have a conversation on the letter. Chairman Kryzak requested a motion first.

Brad Morin, attorney for William Palladino requested the right to speak. Chairman Kryzak stated to him that this was not a public hearing and this was not a time during their meeting in which the public could speak. Kryzak went on to explain to Attorney Morin that there would be a time, under “Other Business” in which the public could speak and it would be open microphone. Attorney Morin stated that his client has a right to be heard before the Board takes action. Chairman Kryzak reiterated by saying they have already had a public hearing and the purpose now was for the Board to make a decision on that public hearing. Attorney Morin requested that his objection be duly documented, as he believed his client has not been afforded proper procedures and has a due process right to be heard. Chairman Kryzak instructed the secretary to make such note.

Selectmen Shields made a motion to sign such letter and deny the liquor license application by KB Enterprises; seconded by Ed Walsh.

Chairman Kryzak indicated that he had been in contact with the State and although they did not take action on the first application, as it was incomplete, Mr. Palladino and his attorney felt they had, and were able to go to the State and get a temporary license. With that said, Chairman Kryzak reiterated that a public hearing has already been held, although Mr. Palladino requested a waiver of public hearing, and that the Town was not required to hold a second public hearing on the first application therefore he felt the Board was ready to vote on the letter presented by Selectmen Shields. Vote was unanimous. Motion carried.

5. OTHER BUSINESS:

Brad Morin approached the microphone and introduced himself as the Attorney for KB Enterprises. Mr. Morin stated that he has serious objections to the procedures taken place this evening. He does not feel his client can get a fair impartial hearing from this Board. Mr. Morin also stated that his client was told a decision would be made this evening on his liquor license application, and that he has an opportunity to be heard, as it's a due process requirement. Mr. Morin indicated he watched the video from the public hearing and the action of the Board at that time was to table the application until the establishment was in good standings. Mr. Morin feels there is no dispute at this time that has occurred and that it is all in the revised application he has submitted. Mr. Morin pointed out several discrepancies that he felt had occurred in this process. He also commented that he spoke to Maurice Ouellette and Mr. Ouellette stated to him he has no objections to the Town renewing his client's liquor license application. Mr. Morin continued to outline and breakdown the calls as presented by the YCSD as he and his client saw them. In closing Mr. Morin indicated that that he believes procedurally the Town has not handled this correctly and substantially there is no basis for denying the liquor license in law and he would request the Board to reconsider,

6. ANNOUNCEMENTS:

- Town Hall Closed 4th of July / Transfer Station open as scheduled

- July Meeting Schedule

7. ADJOURNMENT:

Bill Shields made a motion to adjourn the meeting, seconded by Ed Walsh. Votes were unanimous. Motions carried.

8. MEMBERS PRESENT:

Ted Kryzak, Bill Shields, Ed Walsh

9. OTHERS PRESENT: Ken Paul, David Winchell Jr., Marion Elliot, Barbara Seckar, William Palladino, Brad Morin, Jennifer Roux