

Regular meeting of the Board of Selectman convened at 7 p.m. on Tuesday, November 12, 2019 in Room 34, the Harry B. Butters Chambers, Norwood Memorial Municipal Building, with the Pledge of Allegiance, and silent moment of prayer/reflection.

Present: Chairman Paul A. Bishop, Selectmen William J. Plasko, Allan D. Howard, Thomas F. Maloney, and David E. Hajjar. Also present General Manager Tony Mazzucco, Clerk Christina Mulvehill, and Assistant Aoife Kelly.

Appointments

7:00 P.M. – Mark Ryan, DPW Director/Town Engineer:

Mr. Ryan submitted his monthly report of department activities. The last day for leaf pick up is Friday, December 6, 2019. The largest water main project in town, the cleaning and lining in the Prospect Street area should be coming to an end by Thanksgiving. The cemetery has been busy as well. Another concert was held in the Chapel which was fabulous and all credit goes to Patty Fanning. The last big roadway resurfacing project is the intersection of Lenox and Nahatan Streets and was made possible by funds form Avalon Bay and Gravestar. Selectman Plasko asked about the Dean Street bridge repair. Mr. Ryan said the town must follow the State processes. The traffic safety advisory met today and the consensus was to remove one parking space on Washington Street to the left as you come off Central Street. Mr. Ryan said design for town parking lots is being finalized and he may have a report on that in the near future.

7:15 P.M. – Norwood Cultural Council:

Amy Pfingston was present regarding her application to be appointed to the Norwood Cultural Council. She has lived in Norwood for over twenty years. Has experience as PTO President of Prescott school and has been involved in volunteering for a long time. Ms. Pfingston said she has a lot of fundraising experience. She sees the cultural council as another way to broaden her horizons. Chairman Bishop thanked Ms. Pfingston for her application. The other Selectmen expressed their support of the candidate.

On motion of Selectman Maloney, seconded by Selectman Hajjar, voted to approve application for appointment to the Cultural Council.

7:30 P.M. – Show Cause Hearing, Claddagh House, LLC, dba Shamrock Pub, 175 Railroad Avenue:

MGL Chapter 138, Sections 23 and 64 and 204 Code of Massachusetts Regulations 2.05, permitting disorder, disturbance or illegality upon the licensed premises, as reported by the Norwood Police Department. Attorney David DeLuca, Norwood Police Detective Brenden Green, Norwood Police Officer Kevin Coffey, and licensee Michelle Kuietauskas were in attendance for the hearing. Det. Greene gave an overview of the alleged events of September 21, 2019 outside the establishment. Police were dispatched for a report of a fight in progress and Officer Kevin Coffey arrived to find James Braccia lying on the ground with facial injuries. Mr. Braccia had been tending bar at the Shamrock that evening. Officer Coffey said he detected strong odor of an alcoholic beverage coming from Braccia and that he was glassy eyed and slurred occasionally. Witnesses said Braccia had been drinking behind the bar and at one point had been brandishing a hammer inside the establishment. Ms. Kuietauskas apologized to the Board, stating she is very ashamed and angry and disgusted. She trusted this man who worked there for four years. Mr. Braccia was let go and is no longer on the premises. She has hired TIPS certified bartenders. Attorney DeLuca said this case showed obvious risk to members of the public as a result of actions of the bartender. The question is whether or not this fits into the scheme that is set out in the statutes and regulations for appropriate punishment with respect to the license. M.G.L Chapter 138, § 23 and § 64 which allows the Board to take action license for permitting of illegal activity upon the property.

The CMR 204 section 2.052 states no license for sale of alcoholic beverages shall permit any disorder, disturbance, or illegality to take place on the licensed premises and the licensee is responsible whether present or not. That is the premise upon which this complaint was brought. Attorney DeLuca went on to say this was a situation that developed spontaneously and was not the kind of illegal activity that the laws reference. The bartender was consuming alcohol while he was tending bar, creating conditions that resulted in disturbance. Unfortunately there is no state law prohibiting drinking alcohol while tending bar or serving. Any town can choose to make this a violation of their own regulations. Mr. Braccia is in custody and will face criminal charges in the future. Chairman Bishop said if bartender knew of illegal activity such as narcotics, etc. it would

Show Cause Hearing, Claddagh House, LLC, dba Shamrock Pub, 175 Railroad Avenue-(cont'd):

fit the regulations, but this was spontaneous. Selectman Hajjar said Mr. Braccia's actions were the result of his alcohol consumption. He asked the police officers how it was determined that the bartender was intoxicated. Officer Coffey spoke about the signs they look for such as glassy eyes, slurring of speech, and a strong odor of alcohol. Attorney DeLuca reiterated there is no state law that restricts consumption of alcohol of employees during the time of their employment. Selectman Howard said this clearly is a sudden occurrence instigated by the bartender, not customers. Management was not present in the building, but we don't expect them to be there every hour of operation. The question is whether or not management permitted these actions, and she did not as she was not there. There are legal charges against the bartender, not management. Selectman Howard said he does not see a violation this Board should come down on in this instance. Selectman Plasko Ms. Kuitauskas if she has had any other problems with this person in the four years he worked for her. She said no and she does not allow drinking behind the bar. Chairman Bishop said following the state statutes and regulations he did not see anything he could hang his hat on in this case. On motion of Selectman Hajjar, seconded by Selectman Plasko, voted to close the hearing. Selectman Hajjar said it is ridiculous to not hold the establishment responsible when the employee got himself intoxicated. Selectman Howard said this employee worked for four years there with no other incidences and he does not see any issue with the fact that he was working alone that night. Chairman Bishop said he is not comfortable trying to make the statutes fit the spontaneity of the situation. Selectman Maloney said there is a hole in our code that does not specifically prohibit consumption of alcohol by on duty staff. The state does not have a law so if I want to issue a sanction here, what is the violation? In regard to Selectman Hajjar's question as to management not being held responsible for this individual's actions, Selectman Maloney pointed out it would be covered if we had this provision in our code prohibiting alcohol consumption while serving. Selectman Maloney said he would like to vote for a sanction on this matter but is not sure the Board has the legal justification to do so. Attorney DeLuca said this case lacks the same kinds of facts that generally support a permitting illegal activity on a premises case. This case would be hard to sustain on appeal lacking the regulation prohibiting alcohol consumption on duty. Selectman Plasko agreed with counsel, having read that section of Mass Code of Regulations, which state "shall permit", which would be if the owner of an establishment knows there is gaming going on weekly and does nothing, or allows a prostitute to use the premises to meet customers, and took no action to stop it. If management knew this person had a habit of getting drunk on the job and did nothing about it would be different, but I don't think we have a standing in this case to take any action other than perhaps a written warning that this type of behavior is not acceptable to the licensing authority and management should take all necessary precautions in the future to prevent any such occurrence including ensuring there is enough staff. On motion of Selectman Plasko seconded by Selectman Howard, voted 4-1 to send a written warning to the establishment that this type of behavior on their premises is not acceptable and they should take all possible management actions to prevent it from occurring in the future. Selectman Hajjar opposed not the letter but the lack of more severe action.

New Business

Patrick Moore, Comcast of Massachusetts:

On motion of Selectman Howard, seconded by Selectman Plasko, voted to file as information statement supporting latest quarterly franchise fee payment.

Supt. Travis Farley, Recreation Department:

On motion of Selectman Howard, seconded by Selectman Maloney, voted to file Bond St. Playground Update.

Cemetery Deed:

On motion of Selectman Plasko, seconded by Selectman Maloney, voted to sign:
Carolyn J. Young Colella, 46 Sharlene Lane, Plainville to Lot C3-95.

Norwood Airport Commission:

On motion of Selectman Howard, seconded by Selectman Maloney would to accept with thanks, Martin Odstrchel letter of resignation from the Airport Commission effective immediately. Selectman Maloney pointed out that the Airport Commission now consists of three members On motion of Selectman Hajjar, seconded by Selectman Maloney, voted to limit airport commission membership to three for the foreseeable future.

Patrick Deschenes, Assistant Town Planner:

On motion of Selectman Hajjar, seconded by Selectman Plasko, voted to approve Energy Reduction Plan 2019 with the understanding that the manager and the staff might make ministerial changes.

Unfinished Business

ABCC:

On motion of Selectman Plasko, seconded by Selectman Hajjar, voted to file as information final approval for change of LLC Manager for Chipotle Mexican Grill of Colorado LLC, dba Chipotle Mexican Grill, 1415 Boston Providence Turnpike.

Memoranda

Building Inspector Mark Chubet:

On motion of Selectman Maloney, seconded by Selectman Hajjar, voted to file as information Building Report for October, 2019.

Manager's Update

Light Department update – new facility

Construction is going well. Vehicles will be housed there for the winter and staff should be moving into the offices in the new year. Will hold an official public opening ceremony in March.

Selectmen's Addenda

Selectman Hajjar

The Norwood Community Chorale

Presenting A Christmas Holiday Concert

Veterans' Day

Very successful event

Pedestrian accident

Serious accident at Washington and Nahatan Street

Selectman Plasko

Dog Park

Found property and meeting next Thursday to discuss further. He will keep the Board apprised.

Selectman Howard

Lombardo Family

Offering free meal to seniors and people who are alone on Thanksgiving.

Selectman Maloney

Veterans' Day Ceremony

Selectman Howard and his wife Renie presented Chief Flynn with a quilt. Chief is a Vietnam Veteran.

Financial Policy - Pension and OPEB liabilities

Adjournment

No other business being presented for consideration, on motion of Selectman Howard, seconded by Selectman Maloney, voted to adjourn and the meeting was adjourned accordingly at 8:40 p.m.

A True Record.

ATTEST: _____
Clerk