

**TOWN OF YARMOUTH
MINUTES OF THE TOWN COUNCIL MEETING**

Meeting: 7- 21/22
Date: December 16, 2021
Time: 7:00 PM
Place: Log Cabin, 196 Main Street

Hybrid Meeting: In person with remote access allowed

1st Order of Business: Roll Call of Members

Roll Call of Members P = Present A = Absent T= Tardy

P David Craig 25 Madison Dr.
P April Humphrey, 277 East Main St
P Heather Abbott, c/o 200 Main St
P Michelle Cromarty 27 Summer Street
P Timothy Shannon, 47 West Elm St
P Randall Bates 30 Tannery Lane
P Robert Waeldner, 141 Oakwood Drive

2nd Order of Business: Approval of the Minutes of Meeting 6-21/22 held November 18, 2021. **Passed 7-0**

3rd Order of Business: To open the meeting to a Public Comment period. none

Item No. 50 To hear the reports of the Council Chair, committees, delegates, liaisons, and the Town Manager.

Councilor Waeldner gave an update on the Yarmouth Community Center, 20 Mill Street, Tour. Councilor Cromarty reported Dan Ostrye will be stepping down from the Bike and Ped committee at the end of the year and thanked him. Councilor Craig reported about projects the Economic Development Advisory Board (EDAB) is working on. Also, at the last EDAB monthly meeting Amy Sinclair reported the farmers market is reported the best weekday market to go to and may expand next year. Councilor Craig also reported the Rental Dwelling Advisory Committee (REDAC) met and working on education by looking on what other communities are doing and state laws. They will start meeting monthly. Councilor Bates reported the Shellfish Conservation Committee looking forward with planning ahead and being proactive. Town Manager, Nat Tupper, reported on Project Holiday. He also wanted to thank the people/person placing wreaths on bridges.

Item No. 51: To hold a public hearing and act upon issuance of a full-time malt spirituous and vinous liquor license to Gather, Otto, AMVETS, and Royal River Grill House.

Be it ordered that issuance of full-time malt spirituous and vinous liquor licenses are hereby approved for Gather, Otto, AMVETS, and Royal River Grill House, and

Be it Further Ordered that issuance of Special Amusements Permits are hereby approved for Gather and AMVETS.

Passed 7-0

Item No. 52: To hold a public hearing and act upon issuance of the Annual Clam Festival Permit to the Yarmouth Chamber of Commerce

Be it ordered that pursuant to the provisions of the Public Property Licensing Ordinance, the Yarmouth Chamber of Commerce, Inc. be issued a license to utilize the following public properties from July 15 through July 17, 2022 for the Clam Festival:

1. Bennett Field with the condition that carnival set-up not be commenced prior to July 8 and that all equipment will be removed by 5:00 P.M. on July 22, 2022
2. Memorial Green
3. Library Lawn
4. Elementary School, High School, and Harrison Middle School grounds for parade purposes and William H. Rowe School grounds for carnival purposes.
5. All public property on Main Street from East and West Elm Street to Interstate 295
6. Cleaves, Bridge and School Streets.
7. Town skating rink.
8. Latchstring Park
9. Public parking facilities to include:
 - (a.) Community House – East Main Street
 - (b.) Royal River Park
 - (c.) DeLorme Field parking area
 - (d.) Cleaves Street
 - (e.) Latchstring Park
 - (f.) High School parking lots

And be it further ordered that the use of town properties for the Clam Festival is conditioned upon the following:

- A. The Yarmouth Chamber of Commerce shall pick up, restore, and return the premises to the same or better condition as prior to the Clam Festival, excepting turf wear and tear, and ground compaction as could reasonably be anticipated from the event and the heavy vehicular, pedestrian, and equipment traffic during the event; and
- B. The Yarmouth Chamber of Commerce shall immediately repair and restore all damaged public areas, facilities, buildings, or equipment; and

- C. The Yarmouth Chamber of Commerce shall pay to the town of Yarmouth a non-refundable damage deposit of \$500. The deposit amount shall remain with the Town of Yarmouth and may be utilized for lawn and/or field repair, or improvements. The \$500 deposit shall not be construed to create, limit, or alter the liabilities of the Chamber of Commerce, nor limit the obligation of the Chamber to repair and restore all damaged properties as provided under sub-sections A or B above.

The Yarmouth Chamber of Commerce shall pay an additional fee of \$1,500 to the town toward public services.

Passed 7-0

Item No. 53: To approve a workplan for conducting a community planning and visioning process as recommended by the Planning Board, and to appropriate funds therefore.

Be it Ordered that a proposed workplan for a Community Visioning process as recommended in a report from Erin Zwirko, Director of Planning and Development, dated November 18, 2021, is hereby approved, a copy of said report to be attached to the Minutes of this Meeting, and a copy of said report to be attached to the Minutes of this Meeting, and

Be it Further Ordered that a sum of \$20,000 is hereby appropriated from Surplus to fund the work of the Community Visioning workplan.

Passed 7-0

Item No. 54: To hold a public hearing and act upon a proposed Ordinance banning the sale and use of certain coal tar driveway and parking area sealants.

Be it Ordained by the Yarmouth Town Council in town council assembled that a new Chapter 321 of the Yarmouth Town Code to be named the Coal Tar Sealant Products Ordinance is hereby adopted to read as follows to be effective 30 days from the date of adoption.

Chapter 321 Coal Tar Sealant Products Ordinance
Coal tar sealant products

- I. **Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Coal tar" means a viscous substance obtained by the destructive distillation of coal and containing levels of polycyclic aromatic hydrocarbons in excess of 10,000 milligrams per kilogram. "Coal tar" includes, but is not limited to, refined coal tar, high temperature coal tar and coal tar pitch.

B. "Coal tar sealant product" means a surface-applied sealant product that contains coal tar or coal tar pitch volatiles.

C. "Polycyclic aromatic hydrocarbons" means a group of compounds that are by-products of incomplete combustion, that include several carcinogens and that are designated as hazardous substances under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 United States Code, Section 9602(a).

II. Sale of coal tar sealant products prohibited. Beginning February 22, 2022, a person may not sell at wholesale or retail a coal tar sealant product in the Town of Yarmouth that is labeled as containing coal tar and that is designed to be applied on a driveway or parking area.

III. Application of coal tar sealant products prohibited. Beginning February 22, 2022, a person may not apply on a driveway or parking area in the Town of Yarmouth a coal tar sealant product that is labeled as containing coal tar and that is designed to be applied on a driveway or parking area.

IV. Exemptions. Any person granted an exemption by the Maine Commissioner of the Department of Environmental Protection from the prohibitions in Title 38 MRS Section 419-E pursuant to subsection 4 of said Section 419-E shall be exempt from these prohibitions.

V. Violations and Penalty. The Code Enforcement Officer shall enforce the provisions of this Ordinance. In the event of a violation of this Ordinance, the Town may seek a penalty in the minimum amount of \$1,000. In the event the Town is the prevailing party in any action under this chapter, it shall be entitled to an award of its reasonable attorney's fees, court costs and the costs of any expert witness fees incurred by the Town. Action may be taken against the owner or operator of the property and any person, firm, or corporation which applies the coal tar sealant on the property, and against the retail or wholesale seller, in violation of this Ordinance. All civil penalties shall inure to the benefit of the Town of Yarmouth.

Main motion by Councilor Craig, 2nd by Councilor Shannon

1st Amendment offered: Councilor Shannon, 2nd by Councilor Craig:

V. Violations and Penalty: 2 changes:

(1) strike ~~minimum~~ before the word amount and

(2) after \$1,000 add **or \$0.25/sf applied in violation of this ordinance, whichever is greater**

2nd Amendment offered: Councilor Waeldner, 2nd by Councilor Bates:

To delete all of Section V. Violations and Penalty.

Vote on 2nd Amendment failed: 1-6, Waeldner in favor

Vote on 1st Amendment passes: 5-2, Bates & Waeldner opposed

Vote on Main motion as amended: 6-1, Waeldner opposed

<p><u>Item No. 55:</u> To hold an Executive Session, if needed, including consideration of the recommendations of the Appointments Committee.</p>
--

None

Meeting adjourned at 7:38

Respectfully Submitted,

Jennifer Doten, CCM, Town Clerk