

TOWN OF FOXBOROUGH  
SELECTMEN'S MEETING  
JULY 26, 2016

Members Present: David S. Feldman, Chairman  
Christopher P. Mitchell, Vice Chairman  
Mark Elfman, Clerk  
James J. DeVellis  
Virginia M. Coppola

Others Present: William G. Keegan, Jr., Town Manager  
Ms. Mary Beth Bernard, Assistant Town Manager  
Ms. Jess Enos, NPS, LLC  
Mr. Joel Angelico, Stadium Advisory Committee  
Ms. Sophia Manos, Foxboro Jaycees  
Ms. Kara Griffin, Tri Town Chamber of Commerce  
Chris Gallagher, Town Engineer

The meeting was brought to order at 7:06 p.m. by David Feldman.

David Feldman read the agenda.

**7:08pm – Citizen's Input**

No one was present for Citizen's Input.

**7:08pm – Selectmen's Update**

Ms. Coppola stated she wanted to give everyone a reminder that August 7, 2016 is Purple Heart Day where they honor their Purple Heart recipients and community flags will be placed around the common and they have two special Purple Heart flags that will also be up there. Just as a reminder a way for everyone to honor Purple Heart recipients is to use Purple Heart stamps that are available at the Post Office. It is a nice idea to use them now and throughout the year in order to honor these people that have given so much for our country. On August 7, 2016 you will see the flags around the common and it is because we are a Purple Heart community.

Mr. Feldman wanted to remind people with the hot weather to check on any neighbors that happen to be elderly and make sure you keep your pets nice and cool and give them water.

**7:11pm – Discussion/Vote Change of Language to (9) New Alcohol Licenses**

Mr. Keegan stated that Representative Barrows could not be there this evening because he had a scheduling conflict. Mr. Keegan stated that these are the motions for the liquor licenses that were approved at the Annual Town Meeting in May. They sent them to the legislature and they

went through the normal process of drafting legislation, sending it to them and then typically what happens is House Counsel will review it and come back with some changes. The language they put in the Annual Town Meeting is approved and sent to the legislature but any amendments to the bill have to come back to the Board for further approval if they are made. In his opinion all of these are just technical amendments (word changes); there is nothing in there that is substantial from what he could see. There was an error in one of them that they would have sent back earlier but the legislature is going to be closing out shortly so Representative Barrows would like to get these in and he thinks that we might be able to get these approved in this current session. If the Board is acceptable to this at this point the Board can read the motions into the record.

Ms. Coppola stated just for further clarification the session does end July 1, 2016 and that is the formal session but these still can be taken up in informal session.

Motion by Mark Elfman to approve revised language as recommended by House Counsel on Bill #4429. Seconded by Christopher Mitchell. **Vote 5-0-0**

Motion by Mark Elfman to approve revised language as recommended by House Counsel on Bill #4430. Seconded by Christopher Mitchell. **Vote 5-0-0**

Motion by Mark Elfman to approve revised language as recommended by House Counsel on Bill #4431. Seconded by Christopher Mitchell. **Vote 5-0-0**

**7:15pm – NPS, LLC – Public Hearing – Kenny Chesney Concert – Jess Enos, NPS, LLC, Joel Angelico, Stadium Advisory Committee**

Mark Elfman read the public hearing notice.

Ms. Enos stated she was before the Board this evening to license the Kenny Chesney concert for this year which is called the Spread the Love Tour and they are requesting Friday, August 26, 2016 and Saturday, August 27, 2016. This will not be the last time she is before them because they still have one more license coming before them for a show in September. This has been the busiest summer they have ever had at Gillette Stadium and so far it has been exciting and challenging but overall it has been successful. This year with Kenny Chesney the most noteworthy aspect of this event is the lineup. It is different this year and it is a lot different than what they have seen in the past. He has support acts this year (not to discredit any of his previous lineups that are far more significant and much bigger draws than what they typically see from this specific show so there are a unique subset of challenges that come with this event every year; one of which being people were meeting in the parking lot and starting that shift of fans from the parking lot into the venue. In this case, the first act is the one that comes on stage at 5:00pm and is an act that was in Boston back in February and sold out a 1,400 seat venue in less than three minutes so there is a lot of demand for all of the acts that are on this bill right now which she thinks would probably be the biggest behavioral shift that they will see with this show this year is that people will be in the building at 5:00pm to catch these acts because the first, second and third acts are all huge names.

The timing is exactly the same as what they have seen in previous years and they are requesting a 5:00pm start time and as with previous years again because of the public safety concerns they will differ lot opening times and procedures to Chief O'Leary and to the State Police as to when would be the appropriate time to open; a lot of time it shifts from Friday versus Saturday or they move one or the other back or forward depending on how traffic is backing up. They have seen a really good response to their messaging. They have been doing the messaging to all of their buyers which include their season ticketholders that includes both the clear bag policy but then a separate message with respect to timing, lots, entry profiles and when they go through and look at the analytics of those, people are actually reading those more as the years have gone on. They started this four years ago and their fans are actually looking through because they are looking at the click through rates and they are clicking through and reading them and they have seen that especially with the implementation of the clear bag policy this year. The first event which was actually Super Cross, they had some troubles with it and they definitely saw that as well with Beyoncé but by the time they got to Guns & Roses on Wednesday of this week they were seeing a lot of repeat fans and a lot of people that are familiar with the policy that are going through the communication that they are sending them in advance.

Both of the shows are already sold out; they went on sale back in the fall as it typically does because the show likes to go on sale before the holidays. The configuration of the stage is similar to previous years; about 4,000 seats on the floor in the GA stage which is at the very front of the stage and the balance of the field will all be fixed seating. This will be the 10<sup>th</sup> year that Kenny has come to the Stadium. It is certainly not lost on them that it is a unique event and it is an event that people wait all year to go to; it is some people's vacations and as such there are behavioral problems that come along with it and they over the years have amended their procedures and taken cues from the Chief. They have a separate space set up for all of the bookings for any protective custodies or any arrests that take place. They have increased staffing of their stadium security as well as the police depending on what they feel comfortable with and what they would like to see staffed. They provide all of the equipment necessary and all of the infrastructure requested to make sure that everything is managed as smoothly as possible.

Mr. DeVellis stated that this was well presented.

Mr. Mitchell stated that in the Chief's letter it stated that the parking lots open at noon and everything else said that the parking lots would open per order of the police; what is the actual time they are scheduled to open, is it noon. Ms. Enos stated for a placeholder time and she doesn't know if they are just assuming backing up the four hours that they typically do for football as they didn't list the time in the license because it really is whatever the Chief dictates. Mr. Mitchell asked what they are telling the fans now; parking lots open at 1:00pm, 2:00pm. Ms. Enos stated right now if you go on the website it says check back closer to the event date for a list of specific event details. Mr. Mitchell asked Chief O'Leary if they have a time they are going to say to everyone that they are opening the lots ahead of time. Chief O'Leary stated that ordinarily on a Friday they will have a lot time longer and usually for these major events it is four hours before the first act goes on which would be 1:00pm which would be easier to do on the Friday show and it is much more challenging because of traffic congestion on the Saturday show. They will have to play that by ear with regard to their neighbors in Walpole and the State

Police impact on Route 95 and Route 495. Mr. Mitchell stated that he is fully aware of opening it because of traffic but he hasn't seen anywhere where it says that lots open at 12:00pm or lots open at 1:00pm it just says "TBD". Chief O'Leary stated they will be playing this by ear based on what they are hearing across the country at other venues as the tour progresses from the West and South into the Northeast to see what is happening in those parts of the country. Mr. Mitchell stated the actual tour itself across the country, are fans going in to see Miranda Lambert when it first opens. Ms. Enos stated the fans are in par with him right now so fans are coming in for that very first act and there hasn't been any discussion at all about shuffling that line up. Mr. Mitchell stated that he thinks it is going to help the parking lots for the two Chiefs. Mr. Keegan stated people are moving into the stadium as opposed to out of the stadium.

Mr. Angelico stated so far this year they have attended every event and reported back to the Board what they see and what is going on and what is happening at the stadium and he thinks so far everything has been very smooth although the Kenny Chesney concert always ends up being a challenge for the public safety he just wants to applaud all of the public safety officials and everything they have done so far and relying on history he can't see where this would be any different. They spent a lot of time at their meeting discussing all the different factors of the event itself and they really believe that the Stadium has put their best foot forward in trying to get these two acts together and getting all of the people in. He thinks Friday is always an interesting event because people are coming from all different areas and especially after work or during work, it is going to be a challenge just to get people through town and hopefully they will make the Route 95/Route 495 visit more than they will come in on Route 140 but there is also a note in the packet that says that there will be a police detail at Route 140 and Route 115 which is important because he thinks it has only been once in a few years that they have tied up the whole center of town and he doesn't think it has happened since so they don't anticipate any other issue there.

Mr. Keegan stated the fact that actually the gates could open in the afternoon is a better thing because the 5:00pm traffic is not a conflict in this case because the show starts at 5:00pm so most people will be on their way into the stadium or at the stadium already or at the grounds in the afternoon which is always a more positive transition for traffic. They have been monitoring this concert as well as others for quite some time now and they have gotten all of the reports straightened out now so they are all getting everything that they expect to get. This year has been a very good year generally speaking and arrests have been generally on the lower side. Chief O'Leary stated that certainly both Luke Bryan shows were significantly different in custodies per 1,000 guests than what they saw in 2014. Mr. Keegan stated that he thinks what is happening also is as the Chief pointed out, he has been managing the show since 2004 and what is happening is the crowd is getting older and so that is a good thing for them in a sense because people tend to manage their behavior a little bit better when they get older. Granted they always have the element that they have to deal with but even last year the numbers were down over the previous year so hopefully they are going to maintain that direction. The setup is really well managed and he had to echo Mr. Angelico's comments that public safety does a great job of managing all the different aspects of this, they actually have it all set up technology wise so everything is all set for bookings in case people do have to go through that process but he thinks it is a really well managed process from start to finish.

Mr. DeVellis stated that he wanted to recognize that he saw that Ms. Enos brought with her the Foxborough resident college intern that is working this summer. There are a lot of high school/college kids that work there and at Patriot Place so he just wanted to recognize that and thank them for taking care of the Foxborough youth as they go through that process. Ms. Enos stated that it is really important to them.

Ms. Coppola stated that she received the post event report from 2015 which it is very nice getting the pre-reports and post-reports and one of the things that was noted in 2015 was under noise complaints; “none during the concert but police reported numerous calls for a production crew after party well into the morning”. Ms. Coppola asked if this was brought to their attention and is it something that will be addressed for this year. Mr. Keegan stated that he hopes they will address that but it was a case where he thinks it was Kenny’s birthday and they ended up having a party in the parking lot afterwards and he doesn’t think anyone knew about it and he thinks it was one of those things where it just happened unannounced. Ms. Enos stated that they addressed it at the time last year when it happened and then they haven’t had any requests of that nature. They let them know at that point last year that essentially the building is there for them to use but in the event that they are going to be doing anything outside the hours of the event that they have planned that they need to collectively formulate a plan that doesn’t create any disturbance to the neighbors in the community. They haven’t had any requests for anything yet.

Motion by Mark Elfman to close the public hearing. Seconded by Christopher Mitchell.

**Vote-5-0-0**

Motion by Mark Elfman to approve the request for the Kenny Chesney concert on Friday, August 26, 2016 and Saturday, August 27, 2016. Seconded by Christopher Mitchell. **Vote 5-0-0**

### **7:29pm –National Night Out – Foxboro Jaycees – Sophia Manos**

Ms. Manos stated that this is their 33<sup>rd</sup> Annual National Night Out Against Drugs and Crime and their theme this year is Give Neighborhood Crime & Drugs a Going Away Party. She knows that Foxborough has been doing this since 1992 and that the Jaycees started partnering with the Chief of Police and the Police Department in 1994 so this is an annual tradition. She is glad to jump in this year and she hopes it goes well.

The event is August 2, 2016 which is next Tuesday from 6-9pm on the Common. She wanted to thank everyone for the use of the Common.

There will be no petting zoo this year because of cost and sanitation considerations. There will be free ice-cream provided by Bliss Ice-Cream, they will have music, Pat Patriot was confirmed earlier this week, face painting, bouncy house, YMCA, Personal Best Karate, HUGS, etc.

Mr. Feldman read the proclamation:

WHEREAS, the National Association of Town Watch (NATW) is sponsoring a unique, nationwide crime, drug, and violence prevention program on August 2<sup>nd</sup>, 2016 entitled “National Night Out”; and

WHEREAS, the “33<sup>nd</sup> Annual National Night Out” provides a unique opportunity for Foxborough to join forces with thousands of other communities across the country in promoting cooperative, police-community crime prevention efforts; and

WHEREAS, The Foxboro Jaycees play a vital role in assisting the Foxborough Police Department through joint crime, drug, and violence prevention efforts in Foxborough and is supporting “National Night Out 2016” locally; and

WHEREAS, it is essential that all citizens of Foxborough be aware of the importance of crime prevention programs and impact that their participation can have on reducing crime, drugs and violence in Foxborough; and

WHEREAS, police-community partnerships, neighborhood safety, awareness and cooperation are important themes of the “National Night Out” program;

NOW, THEREFORE WE, The Foxborough Board of Selectmen, do hereby call upon all citizens of Foxborough to join The Foxboro Jaycees and The Foxborough Police Department in supporting the “33<sup>nd</sup> Annual National Night Out” on August 2<sup>nd</sup>, 2016.

FURTHER, LET IT BE RESOLVED THAT, WE, The Foxborough Board of Selectmen, do hereby proclaim Tuesday, August 2<sup>nd</sup>, 2016 as “NATIONAL NIGHT OUT” in Foxborough.

Mr. Feldman stated that it is a great event and effort and hopefully the weather will cooperate this year and it is always a great event so he encourages people to come out. Mr. DeVellis stated that last year it went all of five minutes and then thunder and lightning came. The importance is that it is for the kids because they have things to do but if people are listening at home for the adults to come there is a lot of booths set up. The Child Sexual Abuse Awareness Committee is having a booth; there will be representation for all the things that have to do with Opioid/Heroin so the kids will be entertained a little bit but more so for the adults to come and there is a lot of good information to listen to and take with them. Ms. Manos stated that the goal is to lure children in and then to keep them there and hopefully educate the parents as well. Speaking as a parent she found this greatly informational two years ago.

**7:36pm – Tri Town Chamber of Commerce – Economic Development Promotional Film – Kara Griffin**

Mr. Keegan introduced Kara Griffin who is the Executive Director of the Tri Town Chamber of Commerce. They have been working together with their comrades in Norton and Mansfield where they have been working on a lot of economic development issues for the region because they know that is so important that they actually pool their resources together and make this particular area a really important place on the map. One of the ideas that came up during their discussion was why don't they produce a film that shows some of the best reasons why you want to locate your business in this region. Fortunately they have a member of the Chamber who actually does this type of work located in Mansfield and they offered to produce this film for them using the best of all three communities and some of the great sites and some of the great assets that they all have. They did a terrific job and he thinks it is really well done. They

thought they wanted to do a little bit of a road show and Ms. Griffin is going to all three communities with the film and then they plan to present this to Governor Baker in August. He is going to be in Norton at the TPC Championship and he will be doing a breakfast with people from the region at the TPC on August 30, 2016 and then they will be meeting with him that morning and they will present him with this film along with some of his cabinet members and it should be a really good thing for all of them.

They played the film for the Board.

Ms. Griffin stated that they are extremely excited and have been working on this for quite some time. She thinks that Mr. DeVellis may have seen a PowerPoint presentation that Ed Tartufo did years ago and it really kind of evolves on some of the statistics there and why they feel those three towns have so much synergy and there is so much here for businesses and for people that live there and they know it is awesome so it was great to put something like that together to shout it out.

Mr. Keegan stated all three towns will be able to put this on each of their websites and in addition to that the Chamber will have it put on their website and they will give to the State so they can put it on the statewide website for consideration and see if they can put it on like a you tube type of scenario. Mr. Feldman asked if the Economic Development Committee could have a copy as it would be helpful to the group to see and see some of the talking points and kind of steer them in the right direction. Mr. Keegan stated that when you put it in a film like that, it is really interesting to see what a great area this really is but it is an untapped region in many ways so they are just scratching the surface in many ways so it is great to be able to pull this together.

Ms. Griffin stated that it was great working with the three town managers and there is a lot of great synergy there which makes so much sense. Mr. Keegan stated that they work really well together and all three of them are in the same regional sewer and they are working on the regional dispatch right now and they are talking to Mansfield right now about the possibility of servicing their streetlights.

Mr. DeVellis stated that his suggestion would be that they talk about the retail, housing and education and even though the three towns don't have higher education in their borders, that radius that they did has 50% of the New England population between the abutting towns there is a lot of higher education that will attract people (Wheaton and Bridgewater). Ms. Griffin stated they did talk about utilizing this and it was so much more in depth but they had cut out about 1 ½ minutes. Mr. Feldman stated that there was no mention about HealthCare which is a big thing that businesses are going to be looking for when they are relocating. Mr. Keegan stated that they have some of the greatest healthcare in the world here.

Mr. Keegan stated they really wanted to get some reaction because they have been working on this for so long they have a tendency to forget certain things so they wanted to get some reaction from the Board before they finish it. Mr. Feldman stated that they can obviously supplement that with a handout and include those items within the handout and other than that he thinks it was very well done.

Mr. Danau asked in terms of the framing device was that a fictional person who was saying they were looking to relocate their company. Ms. Griffin stated it was just a storyboard. Mr. Danau stated they were using it like a fictional framing device. Ms. Griffin stated that they have heard numerous stories from business people in the past and there was a real person in there from New England Ice-Cream who is just building over in Norton and putting their new corporate structure there and the passion you feel from him and the ease he had for his company moving to our area and why he did kind of got them into that first person storyboard talk and they felt like that was the most powerful so the voice yes was fictional but it kind of feeds in a lot of the comments that they get all the time that the towns are so business friendly and cutting edge.

**7:48pm - Discussion/Vote on Approval to Spend Funds for Clarendon Street - Chris Gallagher**

Mr. Gallagher stated on behalf of the Planning Board he was there to discuss Clarendon Street which is Pleasantview Estates off of Pleasant Street. A couple of years ago, the bond was pulled on the street and two years ago they finished paving it and did some of the final roadwork. The last step is the as built survey plans, street acceptance plans, legal description and then the stake it out and installation of the bounds. They have a budget and a proposal from Bay Colony to complete that work. They currently have \$10,134 left in the budget and they have given them a “not to exceed” \$10,000 to complete that work. He wanted to commend Ms. Jordan because their original quote was closer to \$12,000 and she beat them up and got them down on that so that they can actually complete the work. That will be the final step and then it can go to town meeting for acceptance and then it will be officially a town street so he is before the Board looking for a bond. Mr. Mitchell asked if they have a bond. Mr. Gallagher stated yes, what is left is \$10,134 and the proposed work is not to exceed \$10,000.

Mr. Mitchell stated as a clerical thing the next time something like this comes up he wants documentation in their packets ahead of time so they are aware of what they are talking about.

Mr. DeVellis asked if this was because the developer just didn’t finish the work and they pulled his bond and was there any negotiation that they couldn’t do everything that was supposed to be done and does this cover everything that was supposed to be done. Mr. Gallagher stated this will be everything. When he got brought into the picture he was asked to look at the roadwork and at that time they had gotten a proposal from Bay Colony which kicked them over the remaining amount of the bond so they held off on that piece and they weren’t sure if they were going to supplement that with Planning Board funding or town funding or do it another way but they were able to get their price down so they were able to finish it within the range of the bond.

Mr. DeVellis stated the road has not been accepted and this gets it to the point where it would go to a warrant article to accept it eventually in which Mr. Gallagher stated correct. Mr. DeVellis asked if there were any disgruntled neighbors that are not getting what they thought they were going to get. Mr. Gallagher stated that everyone is happy. They finished the road, they did some crack sealing, they paved it two years ago and now it has just been sitting waiting for this piece of acceptance.

Mr. Feldman asked who has been maintaining the roads as far as snowplowing is concerned in which Mr. Gallagher stated the town does.

Motion by Mark Elfman to approve to spend the funds for Clarendon Street. Seconded by Christopher Mitchell. **Vote 5-0-0**

**7:52pm – Discussion/Vote on Non-Union Pay Plan – William G. Keegan, Jr.**

Mr. Feldman postponed this to the next meeting.

**7:52pm – Town Manager Update – William G. Keegan, Jr.**

Mr. Keegan stated the first thing on his list was that Aubuchon Hardware closed on Friday and he reached out to the Corporate Office this morning asking them what happened and if they normally close just like that as they have been in business here for 65 years. Unfortunately they typically do as corporate policy, they close quickly because obviously there are internal issues that they need to deal with, with their employees and if they lead up to that, no good things can happen if you announce it too early. They gave him a number of reasons and in fairness to them he wouldn't want to state that tonight but they did describe why they did that the way they did. Unfortunately, the store itself has not been profitable for quite some time (almost 20 years). They actually consolidated some of their locations and the store model that they currently have with the downtown model is sort of disappearing as an entity. What happened is that as stores like Home Depot and Lowes have sort of taken over into the suburbs there has been less and less of a demand for those types of services in the downtown area so they moved their model into more of like a plaza oriented type of scenario. They haven't closed the door as to possibly coming back to this area but it would probably be in a different location than it currently is. The store itself is actually owned by a subsidiary of the Aubuchon Company called Aubuchon Realty and their lease was up this year on that property and so as a result they decided they were going to go in a different direction with that store. They actually did build a newer store out in Franklin recently so a lot of their stuff has been moved in that direction. Mr. Mitchell asked if their intent was to lease that space out again or sell it. Mr. Keegan stated that remains to be seen. There is a lot of possibility you could have with that store, it is an interesting piece because it actually has its own parking and it also has sidewalk access and it has direct access to the Common. It is an interesting possibility for lots of different reasons and he thinks it is going to be a topic of discussion at the Economic Development Committee tomorrow night. There are a lot of people who are disappointed to see them go. He has talked to a lot of residents about it and he shares their disappointment but by the same token, one door closes and another one opens. As he sees that property, that has all kinds of potential possibilities so he thinks now is the time for them to really start looking at the downtown potential because now you are looking at a couple of different pieces of that overall puzzle that could be looked at for a different type of downtown than what people are used to seeing over the years. Mr. Mitchell stated that it is a good wakeup call for them too because if they want to invest in the downtown you need to support the downtown businesses; you need to shop local. If they are going to invest and have any chance of building that downtown people need to support them as opposed to the box stores. Mr. Keegan stated it was a good statement to make. He does believe that a lot of local people did support that store but unfortunately it just wasn't enough in terms of volume. It was a very

convenient location for people because they didn't have to travel outside the borders of this community to go get their hardware materials but the problem was that just wasn't enough, they needed to have a regional volume as opposed to a single town volume. Dr. Elfman stated that it makes it that much more important for that first Water & Sewer Commission meeting in August. Mr. Keegan stated that Mr. Hill indicated to him that he has already reached out to an engineering firm to do a preliminary analysis on that. He knows they will be dealing with this in August and he thinks there will be a lot of support to try and move that forward. Ms. Coppola asked if that area was on town sewer. Ms. Bernard stated she talked to Ms. Duncan and they aren't sure. Mr. Keegan stated that clearly what they need is a downtown map.

Mr. Keegan also wanted to inform everyone that they did have a water main break on Central Street between Elm Street and Leonard Street and some of the people in between those areas did lose their water tonight and it should be back tonight from what he is hearing. It was a pretty substantial break in the pipe so their teams are out there working on it right now.

They are finalizing the contract for the new cell tower at the public safety building and they are working on the details of getting that finished up. They came to a preliminary understanding of what that contract is going to look like today.

They are working on the acquisition of town street lights and a conversion of those lights to a more efficient LED lighting source. They can pay for that with their existing budgetary funds. He worked on a similar project at his previous job and they were able to acquire them over a 5 year span and convert them all to a much more efficient lighting system.

He met last night with the Historical Commission to talk about the condition of the old Quaker School and they are at a point now where that building actually needs to come down and what he spoke to them last night was about the possibility of taking the building down, retaining the property for town purposes but making almost like a pocket park for the corner with a flagpole and a couple of benches and maybe even a stone marker that designates that area as the former location for the old Quaker School and they seemed to like the idea. He didn't want to pursue it with this Board until he had their feelings about this and they actually thought it was a good idea so he wanted to present this to the Board. They haven't identified the full source of funds yet but he thinks they will be able to get the building down at least and then they will pursue the rest of it throughout the year. Mr. DeVellis stated the reason is structurally not that it was not buttoned down. Mr. Keegan stated no, the interior is just coming down. Dr. Elfman asked how old the school was in which Mr. Keegan stated 1829. Mr. Mitchell asked if they were all in favor that it has to come down. Mr. Keegan stated that they themselves don't make that determination normally that is something the Building Commissioner does and he has already gone in with the facilities manager as well and they both reached that conclusion. They will actually go back to the Historical Commission to get a demolition permit before they do that but considering structurally wise, there is a lot of concern about developing that corner into something but it is not that big of a place and quite honestly it is dangerous to have parking along there or cars coming in and out of there because it is right on the corner so the idea would be to make it into a pocket park which would strictly be walking and anyone that wants to park, they can park across the street or in that area, there is plenty of parking in that area. Mr. Mitchell stated that he was saying they could park across the street but that is a private parking lot across the street. Mr.

Keegan stated it is but he can't imagine a lot of people using it; it will be an area that remains green. Mr. DeVellis asked if they were talking about the South Foxboro Community Center in which Mr. Keegan stated yes. Mr. Mitchell stated that gets used quite a bit and he can't see this park getting used a lot he just thinks it will make the corner look a little nicer. Mr. Keegan stated it will look nice because the building itself is in rough shape so it will be a combination of beautification and green space.

Mr. Keegan stated new phones are coming into town hall by the end of August and the project will be completed. They are going to take those phones to the new building.

The Board of Selectmen has had the new Boarddoc training and he assumed they all liked it. Mr. Mitchell asked when they would be going live in which Ms. Bernard stated they have to work out a few kinks and probably this fall. Mr. Feldman asked if they would do a paper and document transition meeting where they will have both in which Mr. Keegan stated at least one of those and they will have to do dual tracks for a little bit.

The town wide Patriots Training Camp is going to be August 1, 2016 and they have tickets at town hall in case anyone wants them and they are free for residents.

The Community Aggregation process is moving right along and they have scheduled their public hearing with the DPU in September 15.

Town Hall is moving right along. They are starting to put the sample window, brick and wall together that they are using in the building. Mr. Feldman asked if they are doing a mockup in which Mr. Keegan stated yes. Mr. Feldman asked when it would be ready. Mr. Keegan stated it should be ready by next week and he saw the preliminaries yesterday and it looked pretty good. Mr. Mitchell asked when the overall project would be done. Mr. Keegan stated probably the 10-11 month range right now. They have made good progress and they hope to be buttoned up so the building itself will be enclosed by the end of September and then they will start their interior work. They want to be enclosed so they can work all winter. Mr. Mitchell stated the plan is that it is done, move in and the other one gets demolished right away and finish the site work in Mr. Keegan stated yes. Mr. Mitchell asked how long is that period going to be. Mr. Keegan stated they are hoping to be in the building with the work finished by July/August next year.

Ms. Coppola stated that when Ms. Griffin was there from Tri Town Mr. Keegan had mentioned they were speaking with the Town of Mansfield with regard to lighting and wanted to know if Foxborough was buying electricity from them. Mr. Keegan stated no, they can't buy electricity from them but one thought was if they purchase their lights they have to have someone that maintains them and they have their own electric light company so one of the things that he reached out to the Town Manager was if he would be interested in servicing the lights and of course their prices are always better because they are a nonprofit. He said he would definitely look at that for him and he said he would go so far to say if they change the lights over to LED would they be doing the installation so he is going to look at that as well. Having those preliminary conversations, he is very supportive. Ms. Coppola asked if Mansfield have the lights now that he is looking at in which Mr. Keegan stated he didn't know but there system is a great system and it's above Cadillac version and it is maintained really well. Ms. Coppola stated that

maybe if they were considering doing the same lights as us they can make a large purchase with them. Mr. Keegan stated they are doing that with the City of Newburyport. The company that they are using is looking to do a joint bid with the City of Newburyport so they are looking to purchase them on a joint basis. Mr. Keegan stated it would be a nice improvement and you will probably be able to turn on more lights than you have now at less money.

Dr. Elfman asked if they got an E-Mail from him on the old Legion Hall request. Mr. Keegan stated they have not received any formal requests yet and they may have sent a letter. Mr. DeVellis stated that they got a letter from the owner. Mr. Keegan stated that they can't formally make a request until they get all their permits lined up. Dr. Elfman stated that wasn't an official request then. Mr. Keegan stated no, it is just to notify them that this was their intent and he actually spoke to him and he told him if he was interested at a shot at that license he told them they need to send him a letter because they can't formally apply until they have all their permits and he knows they are very close.

### **8:07pm – Assistant Town Manager Update – Mary Beth Bernard**

Ms. Bernard stated they have been continuing on process improvement and lots of personnel type things, performance evaluations and nonunion pay plan. They held an employee meeting with people covered by the nonunion pay plan, they called everyone together and did a quick overview for them and allowed them a week to digest the information and then give them their feedback on the plan. They are also implementing a new vacation policy for that group beginning July 1<sup>st</sup> as well. They are communicating with this remaining group of about 14 people right now.

They are also working very closely with the Personnel Board and they are taking the town's bylaw and working policies revisions and held a public meeting open to employees and she is very pleased to say that four employees who are covered by this went to the meeting and gave great feedback. Tomorrow she is sharing the drafts of all of the policies that they looked at. The bylaw outlines a process by which the Town Manager and Board of Selectmen will also review anything before it gets formalized and there will be a public hearing that goes with them. They are working on multiple drafts and they are looking for feedback from employees on each of the policies. They covered about 6-7 policies last month and in August they have three more that they are slated to look at. It has been a very good process. The Personnel Board is amazing to work with; they get a lot of good feedback and they work really hard and do their homework. They are using the HR counsel to help with the legality of it. Once the policies go through the town process of going to the Town Manager and Board of Selectmen they will also send them to town counsel to look at as well. They are well on their way with the process of policy improvements for the nonunion group.

The job description study for the Steelworkers they will be wrapping up soon there is just a couple of more job descriptions to do, they are 90% there and they are working with a consultant on the compensation plan and they will be reopening negotiations on that. They are working on performance evaluations with several groups right now and one bargaining unit, they are also talking to them about it so now they are getting a lot of people on board with the performance evaluation process.

The Opioid Task Force met last week and they are actually looking at renaming the group because it is more than just Opioid and they are trying to get a name that refers people to resources and is a safe place to come and get assistance and education and they want to be a clearing house for resources, education, community events and they are hoping to have a great website presence and then presence at different events; the HUGS events, school events and things like that with the goal towards running sort of an informational thing this fall as a task force. Mr. Keegan stated if anyone has any great ideas about a catchy name for this committee, they are all ears and that includes anyone in the public who has a good name that they think will be helpful. The name that they are working on is the Opioid Drug Addiction Task Force but they are looking to do something similar to the name change that they did with the Child Sexual Abuse. They want to make sure that it is truly a reflection of what kind of work they are doing and that is to be a clearing house for information and a resource for those people that really need help. Ms. Coppola stated how about "Addiction Outreach". Mr. Keegan stated it could be and it is always good to have a number of letters that sort of work like an acronym and so they were trying to think of that approach as to what is the right acronym that they could use. If the Board wants to send them their ideas, they are collecting suggestions. Ms. Bernard stated that it is a great group to work with and most groups taper off during the summer but this group keeps meeting.

The Police Chief process continues where they remain on schedule thanks to a lot of great people who sat in on their panel interviews, they held them at a clandestine location because they didn't want anyone to see who the candidates were; they were protecting their identities and confidentiality. They had two panels running concurrently and each candidate went through a sort of town panel made up of town government representatives and then they had a community partners group as well that the candidates met with. The two groups met at the end of the evening with a consensus vote decided to move 4 people forward. They interviewed a total of 7 candidates and 4 people are moving forward to the next stage of the process which is the assessment center. They have a consultant doing a 1 ½ day assessment center. The Board is going to have an opportunity to meet one on one with each of the candidates during that process and then at the conclusion of that, whatever the recommended number of people is, perhaps 2-3, that will be the point where they announce the finalist's names and they will come to the Board of Selectmen on August 23, 2016. Mr. Keegan wanted to congratulate everyone here that has been part of the process to really maintain the confidentiality of everyone because they keep hearing from people trying to fish for information on these people and more often than not they keep throwing out names of people that weren't even part of the process. They appreciate that people are respecting that confidentiality. Ms. Bernard stated that the notification process, today letters went out to anyone who had submitted an application or who has been in the process to let them know that they have narrowed it to a small group of candidates. The people that they have met with in person, she contacted them personally and chatted with them about the fact that they didn't move on in the process. The candidates that remained in the process are so excited. They are hearing from them all the time and they are researching and visiting the town. Mr. Mitchell stated that it is a good process and he hasn't heard a peep or anything. Mr. Mitchell stated that his only fear is timewise, August 23, 2016 Board of Selectmen meeting that would theoretically be the final interview and they want this person to take over when in September. Ms. Bernard stated they were hoping between September 15, 2016 and September 30, 2016 depending on how

much notice they have to give. Mr. Mitchell stated that if they are an existing person wouldn't they have to give a fair amount of notice. Mr. Keegan stated it is about a month plus they do have to allow some time for negotiating an agreement but they will continue to work closely on that piece of it. Ms. Bernard stated between the Assessment Center and the Board's meeting is when a lot of the background stuff is going to happen. Mr. Feldman stated that once they go to the Assessment Center the cat is out of the bag at that point.

### **8:17pm – Action Items**

Motion by Mark Elfman to approve the Annual Sharon Triathlon on 8/14/16 from 8:00am-9:45am. Seconded by Christopher Mitchell. **Vote 5-0-0**

Motion by Mark Elfman to approve the 5K Road Race on 9/18/16 from 9:00am-1:00pm. Seconded by Christopher Mitchell. **Vote 4-0-1 Jim DeVellis abstained**

Motion by Mark Elfman to accept a gift donation in the amount of \$30 from Lisa St. George for an Adoption Fee to Animal Control. Seconded by Christopher Mitchell. **Vote 5-0-0**

Motion by Mark Elfman to accept a gift donation valued at \$150 for a donation of a game for play at Recreation Summer Program from the Foxboro Fish & Game to Foxboro Recreation. Seconded by Christopher Mitchell. **Vote 5-0-0**

Motion by Mark Elfman to accept a gift donation in the amount of \$120 from Friends of Foxboro Seniors to help pay for the June Tai Chi Class to the Council on Aging & Human Services. Seconded by Christopher Mitchell. **Vote 5-0-0**

Motion by Mark Elfman to accept a gift donation in the amount of \$50 for the Lock Box Program from Anonymous to the Council on Aging. Seconded by Christopher Mitchell. **Vote 5-0-0**

Motion by Mark Elfman to approve (8) One Day All Alcohol Licenses for: Sunday, 9/18/16 10:00am-7:00pm; Thursday, 9/22/16 5:00pm-1:00am; Sunday, 10/2/16 10:00am-7:00pm; these last five days are subject to change. Sunday, 10/16/16 10:00am – 7:00pm; Sunday, 11/13/16 5:00pm-1:00am; Sunday, 12/4/16 10:00am-7:00pm; Sunday, 12/12/16 5:00pm-1:00am; Sunday, 12/24/16 10:00am – 7:00pm for First & Goal. Seconded by Christopher Mitchell.

Mr. Mitchell asked if 1:00am is a standard Foxborough license end time in which Mr. Keegan stated yes and that the only time that tends to change is around New Year's Eve.

**Vote 5-0-0**

Motion by Mark Elfman to approve the June 28, 2016 Board of Selectmen Minutes. Seconded by Christopher Mitchell. **Vote 5-0-0**

Motion by Mark Elfman to approve the July 12, 2016 Board of Selectmen Minutes. Seconded by Virginia Coppola seconded. **Vote 4-0-1 Christopher Mitchell abstained.**

Mr. Keegan stated what happened this past week they had two concerts at the stadium and the second concert for Guns & Roses went past the established end time of 11:15pm and ended at 11:25pm. The Board of Selectmen established 11:15pm as the curfew for that event. He inquired about it and got a report the next day from the Building Commissioner who is actually the official time keeper of those events and he reported to him that this had happened. He inquired further as to what the circumstances were of why it occurred. It was interesting to find out that there were some mitigating circumstances the Board should take into consideration. One is the fact that previous performers actually ran ten minutes late and it was not the headline act that ran ten minutes late. What happened was their show got pushed ten minutes forward and what they actually did was they tried to be accommodating to the Board of Selectmen's request to stay at 11:15pm, they trimmed a couple of their songs off the end. Unfortunately they still were within that ten minute timeframe. Even though there was a lot of discussion around the action initially it was not the actual headline band that caused them to go late it was the performance immediately before that performance that ran late causing them to go ten minutes late. The question is, the Board has before them the license provision that states if the curfew is violated, the Board may take action to address that by imposing a fine or the range of actions could be a warning up to a fine. The reason he says warning is because they have never actually imposed a fine on this type of event in the past. This is like the first consideration of that situation. He leaves it for the Board of Selectmen to decide because this is really their decision and there are mitigating circumstances which should be considered under this scenario and they do have some options. Mr. Mitchell asked if they have the Stadium Advisory report, he knows they received it from the first Guns & Roses concert but they didn't get the second report. Mr. Keegan stated that they did a report back. Mr. Keegan stated that it said basically the same thing, their end time said 11:27pm but Mr. Casbarra is the official time keeper and what happened was, he thinks they stopped playing at 11:25pm and the lights came up at 11:27pm and it is a difference of two minutes. Mr. Mitchell stated he would never have known because he didn't get any complaints that they went too long or were too loud. Mr. Keegan stated that is what he wanted to state to the Board that there were no complaints about the band being late and there were no noise complaints about the band. There was one noise complaint but it was not about the band running late, it was something that the Building Commissioner addressed directly with that individual.

Mr. Feldman stated that he thinks they have to judge each one of these individually based on what transpires. In each case they can't say they were ten minutes over and the regulations are regulations he thinks they have to be cognizant because they don't want to get a reputation either because it makes it harder for the Kraft Group to bring these bands into the community. The fact that there were no noise complaints and from all indications the crowd on both nights was very well behaved. Mr. Keegan stated that there weren't a lot of problems which was good to see because it was in the middle of the week. Mr. Feldman stated that he went to the Luke Bryan concert on Saturday night and it was actually his first concert at the stadium and interestingly Luke Bryan actually made a comment that he has to be mindful of the curfew so he knows that message is getting to the band. In the same token, you have an emotional dynamic that goes on during those concerts, the crowd is screaming and they paid good money for it and they are

looking to get everything they can get for what they paid for and a lot of cases they want everyone to go away happy. The fact that there were no noise complaints like Mr. Mitchell said he would have never even have known. Maybe just a reminder letter in this instance. Ms. Coppola stated no, what they are doing is they are setting precedence. The conditions of the license were that it stopped at 11:15pm and their fining mechanism is based on what the Mansfield Board of Selectmen is imposing on the Xfinity Center. She talked to one of their Selectmen today and he said they have the same provision and they have fined bands for going a minute over because you are setting precedence. What you are doing is saying that they do not have to follow the rules and the next band that does it; they have to follow the rules. That is not fair to the bands and it is not fair to the town. You have to be consistent and obviously they were cognizant of it because obviously the stadium has told them because Luke Bryan said they were cognizant of it. They knew they were supposed to stop at 11:15pm and she really thinks they are treading on dangerous ground when you start making exceptions. The only time Mansfield ever made an exception was when there was a lightning storm during a performance; they resumed the concert and finished the concert, but they went over the time and then they had asked the Board of Selectmen not to impose a fine because of extraordinary circumstances. That is an extraordinary circumstance and the fact that the previous band went ten minutes over is not an extraordinary circumstance. You start making exceptions now, it is going to be down the road "give an inch take a mile", you gave them an inch Tuesday night because they were three minutes over because that is in the report and Wednesday you give them ten minutes and they just took that mile. You have to be really careful on setting precedence and it is not like they didn't know about this, they had a very long discussion and they knew there was a possibility of them going over because that is why they originally asked for 11:40pm so they were all cognizant about this; they knew about it and if all the other bands, Luke Bryan and Beyoncé can all end at 11:15pm, Guns & Roses can do the same thing.

Mr. Keegan stated the one thing that the Board of Selectmen should consider is the fact that they have not imposed a fine on a band up to this point. Ms. Coppola stated it was because no one has ever gone over. Mr. Keegan stated the question then becomes as the licensing authority they usually issue a warning on the first offense; that is the normal course of business. Ms. Coppola stated then that should be in the bylaw of the licensing and it isn't in there. Mr. Keegan stated his thought would be that they issue a warning in this instance and advise the group that this is something that is being taken very seriously and as a result the next time it will be imposed. Ms. Coppola stated what will be taken very seriously is it is called a fine and it is called paying a fine for going over your curfew that you were well aware that curfew was there; an act of God did not cause this, it was a previous band that played ten minutes late; you have to be careful of setting precedence and you have to be consistent. Mr. Keegan stated his thought was that they are stepping away from precedence by imposing a fine right out of the gate. His thought would be consistent as a licensing authority, they usually issue a warning first and then they impose a fine or a penalty. Ms. Coppola stated that was not what it said. Mr. Keegan stated it doesn't have to say that and his point is that she is looking at it as a fine schedule and it says "they may", it doesn't say they have to. Ms. Coppola stated why even have this as a condition of the license if they are not going to abide by it. Mr. Keegan stated the Board requested this be in the system so they have it now and it is up to the Board to decide if they all feel strongly that this is something that they should do, then do it but the other side of it is to be consistent with how they act as a licensing authority he suggests that they consider it as a possible warning.

Ms. Coppola stated when he talks about the liquor licenses, you have a range of when someone goes against the regulations you give them a range, this isn't a range this is right in black and white. Mr. Keegan stated no, it says you may impose a fine, it doesn't say they have to. Ms. Coppola stated like an act of God stops the performance for ten minutes, then okay, but because the band before them played more than ten minutes, that is not an act of God.

Dr. Elfman stated he understands what Ms. Coppola is saying but personally he would like a little more information. This seems to him to be a very important decision for the Board going forward and there are a couple of things he would like to know and one is can you talk to Mansfield's Town Manager; what is their policy and how are they enforcing it on one end of the spectrum and on the other end of the spectrum, can they pull the book of the Stadium Advisory Committee and see what some times have been over the last couple of years. They are saying no one has ever been over before. Mr. Keegan stated that this was the first concert season where the fine schedule has been put in place. You haven't had this up until the first concerts of this year. This past year, there were concerts that did go over but there were no penalties associated with it. There were a number of concerts that stayed within the timeframe as well. By in large if it has gone over, in most cases that he has seen, one night might go a couple of minutes and the other could stop a few minutes early so it could average out to be the same. Ms. Coppola stated that was the whole reason they put in the fine system because bands were going over and when she talked to the Mansfield Selectman, he said you have to follow the rules; their curfew is 11:00pm and they have imposed a fine at 11:01pm and he said they have to be consistent. Mr. Keegan stated his suggestion is for consistency purposes. They don't have to take his advice, it is their call collectively but he thinks his point to them is that he is suggesting to them for consistency purposes that is the direction. Dr. Elfman asked who gets fined is it NPS. Mr. Keegan the fine gets assessed to them and ultimately they could assess it to the individual band itself. The licensing entity is NPS. Mr. Feldman stated if you want to equate this to the liquor license violations the first time offenders got a warning and then each subsequent offense the Board of Selectmen have shown that they would come down pretty hard on repeat offenders. Ms. Coppola stated in the Board's notification for the liquor license, there is no range; the only range is the minutes. Mr. Feldman stated that there is a range; there is a range of suspension and first violation. Mr. DeVellis stated that Ms. Coppola meant the concert overages. Mr. Feldman stated that in that it says they may assess fines it doesn't say they have to assess fines and as the licensing authority they have some latitude. Ms. Coppola stated the whole reason for putting in that fining mechanism is because they found that there were bands that were going over and this was a way to handle that and make sure that it doesn't happen. Mr. Feldman stated he understood that but this is a first offense and he thinks they are obligated to say in effect they are getting a pass this time, but no more.

Motion by Ms. Coppola that they follow the fine schedule Condition 5B Overtime in regard to the Guns & Roses concert of Wednesday's date.

Mr. DeVellis stated that he doesn't think they have the authority to fine them tonight; to go in that direction you have to have a cause hearing; they have to come to the Board and state their case and after the hearing closes they can impose the fine. Dr. Elfman stated he would like to see them table it until they get a little more information. Ms. Coppola wanted to know why the

first concert that ended at 11:18pm is not cited. Mr. Keegan stated that was a case where that wasn't a new song that started, they were finishing a song. You can look at this many different ways; it is new to all of them and the question then becomes do they want to have a meeting on this or would they like to just issue a warning or they can actually hold a show cause hearing. Mr. Mitchell stated earlier tonight when they licensed Kenny Chesney they heard from Police, Fire and Stadium Advisory and everyone said this has been a great year. He has heard nothing and zero complaints about Guns & Roses at all and he doesn't see what the big deal is. There were no issues at all except for they went over an allotted time by a small amount; there was zero noise complaints, zero anything and they had everyone there earlier that evening saying what a great season it has been. Ms. Coppola stated that was a nice preface to what this action item is now. Ms. Coppola stated that they are the licensing authority. Mr. Mitchell asked Ms. Coppola how many complaints she got because they went ten minutes over. Ms. Coppola stated she didn't get any. Mr. Mitchell stated no one did. Ms. Coppola stated that it didn't make any difference because if they are the licensing authority and they impose conditions on the license then it is incumbent on the Board of Selectmen. Mr. Mitchell stated that it was illegal for them to go over is basically what she is saying in which Ms. Coppola stated yes. Mr. Mitchell stated that fireworks are illegal in Massachusetts and everyone lights them off and the police do nothing about it. Ms. Coppola stated that is totally different. They are the licensing authority, it is in black and white; they put this in the license to have teeth because other times the concerts were going over. If no one has a problem then why did they even put it as a licensing condition? Mr. Mitchell stated if they got a million complaints last Wednesday night, he could see the merit to all of the conservations, but nobody town wide got a single complaint. Ms. Coppola stated if they went over a half hour then would he be happy. Mr. Mitchell stated then they would have gotten complaints and they probably would have had to take action on it. Ms. Coppola stated if they aren't going to abide by the licensing conditions why even impose them. Mr. Feldman stated he thinks with the licensing conditions they have some latitude to prevent the public nuisance and obviously by going ten minutes late there was not a public nuisance. Ms. Coppola stated that it doesn't make a difference and it was part of the licensing condition. Mr. Feldman stated they have the latitude and they don't have to assess a fine. Ms. Coppola stated that what they are doing is opening the door to exceptions down the road for everyone and if you just stick to the license conditions then they will have no problem; you don't have to question should they or shouldn't they, they just look at the black and white, they went over ten minutes and fine them. Mr. Feldman stated that you take each case individually. Ms. Coppola stated that is when you get into trouble when you take each case individually. Ms. Coppola told Mr. Feldman to call Mansfield in which Mr. Feldman stated that Mansfield is not the licensing authority in Foxborough. Ms. Coppola stated that they have a little bit of experience using this formula. Mr. Feldman stated that as the licensing authority they have a little bit of latitude and this was in there to prevent a public nuisance and obviously without any noise complaints for ten minutes he doesn't think there was a public nuisance.

Motion by Mark Elfman to take no action. Seconded by Christopher Mitchell.

Mr. DeVellis stated he would rather have the term to take it under advisement rather than the term no action. Dr. Elfman asked if taking it under advisement was the same thing as tabling it. Mr. DeVellis stated no, because if they say "no action", it is dead and he is looking at the scale of going over and it goes up to 45 minutes and over one hour and they are there for a reason so if

it was an hour it is egregious whether or not you have complaints or not, you have the ability to say come in or don't come in. The Board can't fine them tonight and he thinks they need to find out more information so take it under advisement and if more information comes up; it is still up for discussion. If they take no action then they have taken no action. In fairness to what Ms. Coppola said, they asked the Board's permission and they said no and they went over so it is insulting at some level. Whether it was intentional and he doesn't think it was, it happened and it doesn't rise to the level where he is upset about it, it is something that happened and the Board has the ability to call them in and fine them 10 cents or 25 cents a ticket. In the big picture, it doesn't make any sense other than it sets precedence and they may regret it a year from now. He thinks they just take it under advisement it means they understand it, they will take it under advisement and will table it and if it comes up again it is there. He thinks they need to take an action rather than no action.

Dr. Elfman stated they always could go the road of giving them the warning and setting the bar that going from this point forward they have done their due diligence of a warning and going forward now, NPS knows that they have done something in the middle. Ms. Coppola stated that they should have given them the warning on Tuesday night when they were three minutes over; that is when you give them a warning. You give them a fine the second night when they are ten minutes over. There is no report for the first night when they were three minutes over; it isn't in the packet and they didn't get a letter from Mr. Casbarra. Mr. DeVellis asked if Mansfield has actually fined them for one minute over in which Ms. Coppola stated yes.

Mr. Keegan stated he thinks what they want to do is look at the big picture because this is an important discussion to have because they are interested in public safety and that is what their role is however in the big scheme of things they don't want to put themselves in that position where people won't go there because they are being petty about things. You want to be careful and there is a fine line there. The regulations are there for a reason because they don't want people running over 25-40 minutes; 15 minutes is high in many cases but they want to be able to send the right message that they are there for a reason to try and manage those events so they don't negatively impact the public's welfare and that is what this is all about. The question then becomes, the Board as a body has some level of consideration; it is not black and white. He would suggest to them that this is why the word "may" is put in there; it is not necessarily black and white and they have the right to say let them consider this for a little while and what is the right measure there. He has thought about this also and he thought about what kind of message he wanted to send here and is it the right thing to send a message that they are aware of what has happened and abide by it or the next time they will have to take some action. Ms. Coppola asked when he says abide by it next time does that mean next year when Guns & Roses comes in they have to abide by it but if another band comes in they will get a warning the first time. Mr. Keegan stated that each time you have to look at each situation and that is why each one requires a separate action. What they want to do is whenever it does happen, they have to look at it and make their judgment. Ms. Coppola stated so when the next band comes in and they are over ten minutes and then they say they are going to fine them and then they will say wait a minute you didn't give Guns & Roses a fine, you gave them a warning. Mr. Keegan stated that's right because it was perfectly acceptable to do that. It is not actually against the band per say, it is against the entity that holds the license. Ms. Coppola stated that it isn't going to make any difference and why even bother having it in the license because they aren't going to pay any

attention to it because they know they don't have to pay any attention to it. Mr. Keegan stated he disagrees with that. Dr. Elfman stated that they are fining the licensing authority; it is not the band. The licensing entity is the one that received the license not the band. Ms. Coppola stated they are well aware of the curfew because they haven't had problems with the majority of the acts because they know they have to be out of there by 11:15pm. Mr. Keegan stated he thinks that is the kind of situation that they want to send as a message or do they want to say that they get it and they shouldn't be doing that and they are telling them it is a fair warning. Ms. Coppola stated how about the message is they are the licensing board and if they put conditions on their license then they should be abided by. Town meeting had originally voted on these regulations as a bylaw and the towns' people approved it so that says to her the town wants these conditions in the license. Mr. DeVellis stated he thinks what the town is saying is that the Selectmen may impose and it doesn't say they shall or they have to so they have a group of five people there and if the majority feels strongly that they feel like they have to oppose or at least go in that direction for a hearing, they set the wheels in motion and at the end of the day they show their muscle and give them a fine but the regulations at town meeting say they may do it.

Mr. DeVellis stated that there is a motion and if they could change it to take it under advisement and in addition send a letter to the license holder that they understand it went over three minutes and over ten minutes and it is a warning and maybe invite them in under the next meeting to discuss it, but to go right into having a public show cause hearing at the first time they have had to do it for something that is ten minutes is pretty aggressive.

Mr. Feldman stated that they have the latitude as the licensing authority to make a recommendation of either a letter or bringing them in for a show of cause and possible fine. That is what it tells them that they have the levity to do; they have latitude and it is not black and white. If you were at a concert with 50,000 people and the headliner says well it is 11:12pm and I can't do my last set because I am going to go over and I am going to get fined; do you want to hear about problems. Ms. Coppola stated no, they make accommodations and they take out a few more songs. They make sure the band before them doesn't go over and that band makes sure that the band before them doesn't go over. It is called control of the event. Mr. Feldman stated having a heart stop at a set point is a little unreasonable and there should be a little bit of a grace period within this. Mr. Keegan stated if the band is in the middle of a song and they go over a little bit, they should be able to finish the song but they cannot start a new song. That is a reasonable position to take. Mr. Feldman stated that is the latitude that they can be able to do that.

Mr. Feldman stated they as the licensing authority have the latitude to make these decisions on how to proceed and he doesn't think it is setting precedence and they are well within their right to make recommendations.

Mr. DeVellis stated he doesn't think it is a case of four of them losing control; if this was offensive and they had complaints and he lives off of North Street and if there were complaints he would be all over that and he would have no problem saying 25 cents x 50,000 or whatever the numbers are but this doesn't bother him and it is not a control thing.

Mark Elfman removed his motion.

Motion by James DeVellis to take the letter from the Building Inspector in accordance to #5A&5B with respect to the fines under advisement issued through the Town Manager through the Chairman a letter to the licensing holder that they are aware that they went over the time allotment per the Building Inspector and consider it a warning on the day of the concert for Guns & Roses with the provision the Board sees the letter before being issued. Seconded by Mark Elfman.

Mr. Mitchell asked if the Board could see that letter before he sends it. Dr. Elfman asked if this would be their official warning to them that they went over. Mr. DeVellis stated it was going to be a letter from the Board of Selectmen and if they get that letter it gives them the ability to say they weren't over or they were sorry or whatever but they are on notice that they have a warning. Mr. Feldman asked how that letter would work. Mr. Keegan stated he will present it as a draft to the Board and he can certainly proceed with any recommended changes as long as they don't discuss it amongst themselves, they can give their input and he can finalize the letter.

**Vote 4-1-0 with Virginia Coppola opposing.**

Motion by Mark Elfman to adjourn at 9:30pm. Seconded by Christopher Mitchell. **Vote 5-0-0**