

TOWN OF FOXBOROUGH
SELECTMEN'S MEETING
SEPTEMBER 06, 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
Pam Atanasoff, Foxborough Cultural Council
Julie Philibert
Guang Lin, Mandarin Chef Owner
Mark Stopa, Stopa & Associates
Dave DeLuca, Town Attorney
Jim Gibson, bought the Legion building
Kristen Scanlon, Council for the licensee Big Night Venues Foxboro LLC
Ed Kane, principal owner of the licensed establishment
Roger Hill, Highway Department
Peter Clarke, Attorney
Wei Chao Guan, Foxboro Mandarin Owner

The meeting was brought to order at 7:00 p.m. by David Feldman.

David Feldman read the agenda.
Ms. Bernard led the Pledge of Allegiance

7:00 Citizens Input

No one was present for Citizens Input

7:05 Pam Atanasoff/Julie Philibert Foxborough Cultural Council Discussion/Vote on Julie Philibert becoming a member of the Foxborough Cultural Council expiring 09/06/2019

Pam Atanasoff recommends Julie Philibert as a new member for the Foxborough Cultural Council. Julie is a visual artist. Her experience includes banners and posters for non-profits and organizing holiday craft fairs. She has a unique ability to connect with local artisans and offer workshops in various media. Jim DeVellis asked Julie Philibert if she had any ideas or anything to add coming into the Foxborough Cultural Council to which she responded that she would like to somehow come up with creative ways to encourage the arts and new ways to work together without the use of a lot of money since funding is limited like bartering services, for example. Mary Beth Bernard asked for Pam or Julie to share the results of a survey that was conducted in Town for economic development purposes. William Keegan talked about a project done in another town where they used an old school building to develop an Arts and Communities Center that was particularly effective as being an economic development driver. People are

moving out of the cities because more space is available in the suburbs and these ideas are worth discussing in the future. Pam mentioned that the Cultural Council grant cycle is happening and is running from September 1 – October 17, 2016 which is posted on the Town website. She also mentioned that they are still looking for new members (ages 18+ with a passion for the arts) in addition to Julie Philibert. Jim DeVellis mentioned the consignment shop at the rotary where in the back they have a spot where local artists can sell their work, like paintings or products in their space. He also mentioned that next Tuesday there will be a ground breaking because they got a gift/grant from Invensys to do the Lane property enhancement which will end up being an indoor/outdoor classroom with a deck that's overlooking a pond and one of the ideas was to use that classroom for the arts. It'll be free, and is something worth exploring. Virginia Coppola then asked if it was possible for the Foxborough Cultural Council to apply to other entities to get more funding to which Pam responded that she wasn't sure whether they could get more money from the state but they can try to generate more money. First, however, they need to focus on generating more applicants.

Mark Elfman made a motion to accept Julie Philibert as a new member of the Foxborough Cultural Council expiring 09/06/2016. Chris Mitchell then seconded the motion.

Vote 5-0-0

7:15 Mandarin Chef Re-Hearing Discussion/Vote on New Alcohol License

Guang Lin, owner of Mandarin Chef, and Mark Stopa from Stopa and Associates were back to continue the discussion of granting Mandarin Chef an alcohol license. Mr. Keegan provided an update to the Selectmen based on last meeting where they would try to get an update on the legislation regarding the node specific licenses which made progress. Despite the fact that the Town does not have the licenses in hand at the time of the meeting, the legislation did make its way through the House and is also in third reading in the Senate. What is left in the process is for it to go back to both the House and Senate for final signature at which point it will be sent to the Governor for final approval. It is the "off season" for the legislature so it is anticipated that things will move quickly. There is no evidence of any technical issues or reasons for the legislation to be held up. He also mentioned that he spoke with Dave DeLuca, the Town attorney, who provided his findings on this particular issue. At this point the floor was turned over to Dave DeLuca who started by saying that he took a look at some of the case law that has been developed through the Alcohol Beverage Control Commission. One of the obvious points is that local Boards have quite a bit of discretion and authority when it comes to alcohol licenses under their jurisdiction. There are several types of licenses that can be granted but this particular license is unique because it is a Town wide all alcohol license which unmistakably is a valuable commodity for both the owner and the Town. It represents an economic opportunity that should be allocated to maximize the development advantage that is associated with the license. Thus, public convenience and public good are the main considerations that the Board must discuss. He continues to say that the applicant, Mandarin Chef has a rather small premises, and a rather limited type of business model which if granted would be underutilizing the type of license that the Town has to offer. It would thus be a defensible decision to deny the issuance of the license according to Mr. DeLuca. If the Town decides to issue the license, it must do so conditionally with a condition of non-transferability so long as the applicant agrees to it, thereby creating an enforceable mechanism to assure the Board that the license will not be transferred between businesses. Mark Elfman made the point that the Board can still issue the Town wide license

with the condition that it be returned when a node specific license becomes available. Chris Mitchell asked if there was any estimate on when the legislation would be final, to which Mr. Keegan said it looks more like a matter of days rather than weeks. Jim DeVellis then talked about the zoning and infrastructure of downtown and in respect to economic development, the Board wants to make sure it sends the message that the Town likes business so that others feel comfortable coming in. However, there is a business before the Board and it's not the job of the Board to determine which business is "better" than the next. A bird in the hand is worth two in the bush and Jim DeVellis made many of the same arguments that Coppola made the last meeting in saying that there is a demand for this license and it fits. Given both sides of the argument, DeVellis suggested that the Board make a motion to grant the Town wide license with the condition that it will be turned in when a new one becomes available, but the applicant must agree to those terms. Mark Stopa then interjected and made the point that when a new business wants to come to Town and they see that node licenses are available, they can factor that into their business decisions, while Mandarin is left in the position of needing to move for financial reasons but is limited because where they move there might not be a license available. David Feldman then brought up that the question is the value of the Town wide license and the ability to get that back. He also mentioned later after more discussion that if Guang Lin moves, as he must in four and a half years, and wherever he moves to in town does not have a node specific license the Board can request another one. It takes time, but that is possible. Guang Lin on the other hand simply argues that he's the one taking all of the risk. After both sides continuing their same arguments, the result was that the Board will give Mandarin Chef the Town wide all alcohol license with the condition that he will not sell or transfer that license and then when a node specific license becomes available, they will return the Town wide license. Additionally, given in four and a half years when Mandarin will be forced to move and there is no license available in the new location, the Town will use reasonable effort to acquire a new one. This of course being subject to Town meeting. Jim Gibson then came up to the microphone and asked the Board that when the Town wide license is returned that the Board keep it in the downtown. The Board agreed that this would be a discussion for another day.

Mark Elfman made the motion to close the public hearing, seconded by Chris Mitchell.

Vote 5-0-0

Mark Elfman made the motion to approve granting request for an all alcohol town wide license for the Mandarin Chef with the following conditions (1) that the applicant agrees that the license will not be transferred or sold (2) the license will be returned to the town in exchange for a node-specific license that became available to the downtown area and (3) in the event that the applicant seeks a new location at some future time and there was a lack of node-specific licenses available, the Town would use reasonable effort to secure an additional node-specific license for the applicant. Seconded by Chris Mitchell.

Vote 5-0-0

7:25 Big Night Venues d/b/a The Scorpion Bar & Mexican Cantina Public Hearing Discussion/Vote on Common Victuallers License & Entertain. License & Review of Final Bar Menu

Kristen Scanlon, Council for the licensee Big Night Venues Foxborough LLC and Ed Kane, one of the principal owners of the licensed establishment were present for the hearing. Kristen started with the background of the proposal for the entertainment license which is a combination of non-

live and live entertainment including radios, televisions, speakers, and amplifiers as well as instrumentalists and vocalists. The proposed schedule for the entertainment will be karaoke on Wednesday nights and football Mondays, Thursdays, and Sundays. It will also include DJ's or acoustic sets on Friday and Saturday nights starting after 10:00 pm. For this proposal the hours needed to be amended for 1:00 am not 2:00 am. Mr. William Keegan also mentioned that there may be an amendment in recent legislation that would require a different license for Sunday entertainment that applies to jukeboxes and live entertainment. This would need to be confirmed, but it's a state regulation that would just need to be factored in. Next to be discussed was the Victuallers license. Chris Mitchell brought up the site plan approval date which he thought was incorrect. The date was from Patriot Place but can be confirmed. And also he mentioned building approval which they had not gotten at the time (in May) when they originally filed the application. The final menu was then presented to the Selectmen. It was also mentioned that the Scorpion bowl that they plan on serving is well within the regulations of the Board for shared drinks. The Board was concerned with whether or not shared drinks like the Scorpion bowl are even allowed because if it's not shared that would be too much alcohol for one person to consume. In this case, however, the drinks will be shared and there are at least four other establishments in Town that already serve these types of drinks.

Mark Elfman moved to close the public hearing. Chris Mitchell seconded.

Vote 5-0-0

Mark Elfman moved to accept the Victuallers license for the Scorpion Bar and Mexican Cantina as amended with the 1:00 am closing time. Chris Mitchell seconded.

Vote 5-0-0

Mark Elfman moved to accept the seven day Entertainment license for the Scorpion Bar and Mexican Cantina. Chris Mitchell seconded.

Vote 5-0-0

7:35 Roger Hill update on Downtown sewer project

Roger Hill came forward and said that two weeks ago they engaged the services of Beta Corporation to do a preliminary design and engineering estimate for this sewer project. He expects to file a number in two weeks. There's many failed septic systems in the area so they want to incorporate as much as they can. Mr. Keegan mentioned that it's entirely possible that they could provide funding for this project at the fall Town Meeting. Chris Mitchell asked the question of Main St down to Granite St area and if there is anything there and why doesn't it extend to that area. Roger Hill responded with if they decide to do that it would add to the cost. There are only a couple of residential properties over there which have access to working septic systems. Roger Hill pointed out that if they want to connect that would be their choice. Jim DeVellis asked about if they considered who exactly can and is able to connect to this system that could potentially want to. Roger said that those who wish to connect would have to pay the cost of providing that sewer which would involve paying for the capacity and the hookup.

7:45 Foxboro Mandarin, Inc. – Public Hearing Discussion/Vote on Alteration of Premise

Peter Clarke, an attorney representing the Foxboro Mandarin, as well as Wei Chao Guan, manager of Foxboro Mandarin was there for the public hearing. Clarke began by saying that this is an interior renovation project. Foxboro Mandarin is located in the old Foxfield plaza which is going to become Forbes Crossing as part of the renovation along with the addition of the

Hampton Inn. Foxboro Mandarin is not relocating or moving and will remain in its current location. However, the alteration of premise will be adjustments that are going to be made to the bar area. The bar will be u-shaped instead and thus will increase the number of seats at the bar while taking away some of the sit down seats. The bathrooms will be renovated and the landlord will be doing a new storefront. They'll be taking up carpet and putting in tile, and putting in new décor and paint as well. In total, it is a roughly \$30,000 project. The estimated time line when the work will be done is March and will take three weeks. David Feldman asked what will happen to the alcohol while the renovations are happening to which Clarke responded that the alcohol will be kept in a locked closet in the kitchen.

Mark Elfman made the motion to close the public hearing. Chris Mitchell seconded.

Vote 5-0-0

Mark Elfman made the motion to accept the application to alter the premises of an annual all alcoholic beverage license for Foxboro Mandarin, Inc.

Vote 5-0-0

7:55 William G. Keegan, Jr. Discussion/Vote new Alcohol License Amended Language for Route 1 Node

This deals with a technical change by house counsel to amend the language. There is no substantive change.

Mark Elfman made the motion to accept the changes. Chris Mitchell seconded.

Vote 5-0-0

8:05 William G. Keegan, Jr. Discussion Regarding Special Town Meeting

The possible date for this special town meeting was November 28, 2016 which is the week after Thanksgiving. That is the date on hold at the moment. There are several items, including zoning issues, changes in the statutes that have come about since last Town Meeting, and putting forth an additional alcohol license.

8:15 Selectmen's Update

One item that was discussed was last Wednesday was the memorial service for Neil Forster which was very well attended and paid homage to the amount of people that he touched. The thoughts and prayers are with the family. Also, this coming Saturday is the McGinty family fun day in memory of Cindy McGinty's husband who was killed on 9/11. Money is raised for scholarships that are given out based on community service. Close to \$100,000 has been given to Foxborough students as a result and it's a family friendly, affordable time with entertainment. Mark Elfman thanked both Chiefs for showing him the behind the scenes of what goes on at concerts at the Stadium and what goes into their work which he found remarkable. It takes a lot of effort and he found the tour eye opening.

8:25 William G. Keegan, Jr. Town Manager Update

Mr. Keegan began by saying that he was at the MIIA (Massachusetts Interlocal Insurance Association) board meeting for three days down the Cape. It was informative and the program is doing well. In particular, the area of concern is the Cadillac tax which is impending in the year 2020. There are steps being taken in an effort to cushion its impact on cities and towns. MIIA is

and continues to be one of the most competitive programs in the state that insures about 270 towns throughout Massachusetts. Their programs include health, life, property, casualty, and workers comp. They insure the Town of Foxborough in all of those areas. Governor Baker appeared on Tuesday morning for the tri-town region and Mr. Keegan spoke with him about economic development. The Governor saw the film, which was a success and he also talked about the Municipal Reform Act and that he signed it into law recently. This was an accomplishment considering that Municipal Laws have not been updated in over fifty years. Mr. Keegan also mentioned that there will be a party for Chief O'Leary and a swearing in ceremony for Chief Baker.

8:35 Mary Beth Bernard Assistant Town Manager Update

Ms. Bernard echoed Mr. Keegan's updates on the Police Department. She added that Chief O'Leary's retirement party will be October 20th at the Lakeview Pavillion at 6:00 pm and an October 6 tentative date at noon for Chief Baker's official swearing in. Also, an RFP was issued for an Assessment Center for Sergeants. There are two openings, one was vacant and the other was caused by the promotion of Rich Noonan to Lieutenant. There has been discussion with the Police Union on how they'd like to work promotion and its being done through Civil Service approval. It is expected that twelve to fourteen people will participate and it will be a two day event. The RFP's are expected to be back by September 21st. Ms. Bernard also mentioned that she was absent at the special Selectmen's Meeting last week because she was attending a professional development SHRM (Society of Human Resource Management) program. She holds two HR certifications and this was in effort to maintain those certifications but was also an opportunity to bring those best practices to the Town. Ms. Bernard then mentioned that if the Board is up to it next week that they can begin Board doc training on the laptops that are available. Mr. Keegan then spoke up and mentioned that the Town has a new phone system which will be transferred to the new Town Hall. It's a voice over IP system. He also mentioned that traffic counters will be placed on Mechanic Street this week. Mark Elfman then asked Mr. Keegan about a letter that was received from Los Angeles regarding future Olympic Games. The city of Los Angeles reached out to Foxborough, or the Kraft Group, to see if the Town will support their endeavors to vie for the 2024 Olympic Games. What they need is a venue for soccer qualifying rounds and have asked Foxborough for their support in submitting their proposal for that. The Town has held World Cups before and other significant games like COPA. There is always a local impact but this proposal is limited to an existing venue which will be paid for by Los Angeles.

Action Items

Motion made by Mark Elfman to approve relocation of the pole on Elm Street. Seconded by Chris Mitchell.

Vote 5-0-0

Motion made by Mark Elfman to approve the petition for manhole and duct locations as well as pole relocation at 48 South Street and 1 Liberty Place. Seconded by Chris Mitchell.

Vote 5-0-0

Motion made by Mark Elfman to accept a Gift Donation in the amount of \$265 (\$25 in Memory of Shirley Emery; \$240 from Friends of Foxboro Seniors for Programs) from Mr. & Mrs. Donald Chin of Brighton. Seconded by Chris Mitchell.

Vote 5-0-0

Motion made by Mark Elfman to accept a Gift Donation in the amount of \$50 for the Lock Box Safety Program from Anonymous. Seconded by Chris Mitchell.

Vote 5-0-0

Motion made by Mark Elfman to accept a Gift Donation in the amount of \$50 in Memory of Shirley Bliss Emery from Lee McCarthy. Seconded by Chris Mitchell.

Vote 5-0-0

Motion made by Mark Elfman to accept a Gift Donation in the amount of \$25 in Memory of Shirley Bliss Emery from Dixie & Donald Chin. Seconded by Chris Mitchell.

Vote 5-0-0

Motion made by Mark Elfman to approve a One Day Beer & Wine License for Foxboro Realty Associates on 9/22/16 from 4:25pm – 8:25pm in Lot 4A. Seconded by Chris Mitchell.

Vote 5-0-0

Motion made by Mark Elfman to accept a Gift Donation in the amount of \$105 in Memory of Shirley Emery, Evelyn Fortier, and Carmelita Ward from Jocelyn Tripp. Seconded by Chris Mitchell.

Vote 5-0-0

Motion made by Mark Elfman to accept a Gift Donation in the amount of \$500 to the Council on Aging from the Friends of Foxboro Seniors for payment of programs at the Senior Center. Seconded by Chris Mitchell.

Vote 5-0-0

Motion made by Mark Elfman to accept a Gift Donation in the amount of \$30 to the Boyden Library from Nathan Horowitz for General Gift Fund. Seconded by Chris Mitchell.

Vote 5-0-0

Motion made by Mark Elfman to accept a Gift Donation in the amount of \$5 to Veteran's Services from Anonymous. Seconded by Chris Mitchell

Vote 5-0-0

Motion made by Mark Elfman to accept a Gift Donation in the amount of \$35 to Veteran's Services in memory of Nancy Paquin from LA & GF Keller. Seconded by Chris Mitchell.

Vote 5-0-0

Motion made by Mark Elfman to accept a Gift Donation in the amount of \$50 to Veteran's Services in memory of Nancy Paquin from Thomas and Margaret Lambert. Seconded by Chris Mitchell

Vote 5-0-0

Motion made by Mark Elfman to accept a Gift Donation in the amount of \$50 to Veteran's Services in memory of Nancy Paquin from Anthony and Joyce Cavossa. Seconded by Chris Mitchell.

Vote 5-0-0

Motion made by Mark Elfman to accept a Gift Donation in the amount of \$25 to Veteran's Services in memory of Nancy Paquin from Robert and Joan Manning. Seconded by Chris Mitchell.

Vote 5-0-0

Motion made by Mark Elfman to accept a Gift Donation in the amount of \$25 to Veteran's Services in memory Nancy Paquin from Ronald and Joan Haley. Seconded by Chris Mitchell.

Vote 5-0-0

Motion made by Mark Elfman to accept a Gift Donation in the amount of \$100 to Veteran's Services in memory of James Driscoll Jr. from Timothy Petricka. Seconded by Chris Mitchell.

Vote 5-0-0

Motion made by Mark Elfman to accept a Gift Donation in the amount of \$25 to Veteran's Services in memory of James Driscoll Jr. from Barry and Joanne St. George. Seconded by Chris Mitchell.

Vote 5-0-0

Motion made by Mark Elfman to close the meeting. Chris Mitchell seconded.

Vote 5-0-0

Meeting Adjourned