

Selectmen's Meeting
February 19, 2013
4:00 pm

A meeting of the Board was held on the above date in the Second Floor Meeting Room, Town Hall. Members present were: Margaret Serpa and Arthur Smadbeck. Also present was Ms. Pamela Dolby, Town Administrator.

At 4:00 pm Ms. Serpa opened the meeting and the advertised shade tree hearing for removal of a Zelkova tree located at 27 North Water Street. Present for the hearing were the applicants Carol and Richard Fligor, and Stuart Fuller, Tree Warden.

Ms. Fligor spoke asking for the removal of the tree. She believed that it was too big for the space. The roots were pushing up the bricks on the walk and the branches were interfering with the wires. The branches were also blocking some of the view of the display window.

Ms. Serpa read a letter from Mr. Robert Hagerty, certified arborist. It stated the problems with the roots pushing up the bricks and the branches interfering with the wires, but did not say anything about the health of the tree. She then asked Mr. Fuller for his input.

Mr. Fuller stated that the tree was in fine condition and was the only one to provide shade in that area. The first two issues could be addressed by pruning the branches around the wires and the roots that were pushing up the bricks. He pointed out that the tree has mostly reached the full height it would reach. It had only grown 2' since the last tree survey which was 10 years ago. He stated that he would have a hard time recommending removal and instead recommended pruning the limbs and roots.

Ms. Serpa asked for any further input.

Ms. Fligor stated that she still felt the tree was too big for the space.

Ms. Dolby reminded the Board that they had a similar request from a residence on South Water St. In that situation, it was a healthy tree with roots pushing up a cement floor and the tree had grown so big it was blocking one of the garage doors. This was denied and pruning was suggested for the roots under the cement.

Mr. Smadbeck stated that normally the tree warden and the applicant come to the Board with a plan in place. Usually the tree has some sort of disease. The Board relies on the Tree Warden for guidance in these situations. He would feel more comfortably if the applicants worked with the tree warden on pruning the trouble areas of the tree.

Ms. Fligor responded that it was hard to accept that the Board would not let her take down her own tree and that it was overgrown.

Mr. Smadbeck stated that he would like to keep the tree. The Board is entrusted with protecting and overseeing the shade trees of Edgartown. He would feel uncomfortable voting to remove a healthy shade tree without the support of the tree warden.

Ms. Claire Thatcher stated that she feels that the town needs all the shade trees it can have.

Ms. Serpa closed the hearing. Mr. Smadbeck moved to deny the permit and encourage pruning with the oversight of the Tree Warden. Ms. Serpa seconded. Unanimous.

Ms Serpa then moved on to the next item which was to hear an update on the Chappaquiddick Comcast agreement.

Ms. Dolby stated that the issue right now was payment. What if people can't afford the fee for hooking up on Chappaquiddick. She sent the question to Comcast and had a brief conversation with Ron Rappaport, Town Counsel.

Atty. Rappaport stated that he doubted that the cable service fee could be done through the town as a betterment. The payment is between Comcast and the customer and does not include the town. He's looking into it further and should have a firm answer soon.

Mr. Dennis Goldin, resident of Chappaquiddick, expressed that it was a town license that Comcast had. He saw the internet as a utility and wants the town's help.

Atty. Rappaport replied that there is a need of statutory basis. The town can't pay a private entity.

Mr. Smadbeck stated that the money is paid individually by the customers not taxpayers. No tax money from the town goes to Comcast.

Mr. Goldin asked about the town's Comcast service.

Ms. Dolby replied that the town pays for their Comcast service just like any other subscriber.

Mr. Goldin expressed that he wanted to have a betterment.

Mr. Smadbeck replied that the town has to follow the rules. They will revisit the subject when Atty. Rappaport has had a chance to research it further.

Atty. Rappaport then moved on to discuss the RFP for the Warren House. He has updated the RFP and has spoken with the head of the legal unit in the Inspector General's office. The one thing that is not included is if someone were to make an offer that includes rehabilitation and flipping the property, including the town in the profit.

Mr. Smadbeck asked if it excluded creative offers.

Ms. Serpa didn't think they should be included in this round.

Mr. Smadbeck didn't want to exclude any viable offers. He asked about brokers.

Atty. Rappaport stated that there had been a part added that adds on 3% for brokers fees if one is used.

It was decided that more times would be set up for viewing, but that someone had to call beforehand to notify the office that they would want to come on that day. Atty. Rappaport advised the Board to stay with set times and not to allow a 24hr notice call.

The dates were decided to put the ad in the Central Register and offers would be due on June 3, 2013.

Atty. Rappaport then gave a quick update on the Ron Minkin, MV Island Transport. The DPU is discussing among themselves whether Mr. Minkin had the right to appeal their decision or not. One section says yes and the other says no.

The Board then approved the following items:

Minutes of 2/11/13

To set a Hearing for Sophia's One Stop Mart for March 18, 2013 at 4pm.

The Board acknowledged a letter from a Ms. Karen O'Neil about the approval of recent liquor licenses.

Ms. Serpa pointed out that there have always been 2 liquor stores downtown. One closed last year and the other was planning a move out of town.

There were 3 applicants for the openings at the Fishermen's Depot Lots. The Board took them under consideration.

Ms. Serpa then moved on to the discussion of articles for Special Town Meeting concerning medical marijuana.

Ms. Dolby stated that she had spoken with a lot of people from other towns and no one knows what the state is going to do. The best thing the town can do right now is a moratorium and no public smoking.

Mr. Matt Poole, Health Agent, stated that he didn't want to mingle tobacco rules with marijuana. He's presenting a public consumption law that would be enforced by the police.

Atty. Rappaport stated that he has been deluged by emails with marijuana questions. The consensus is that no one knows what the state will do at this point.

Ms. Dolby asked that 2 articles be put on the warrant for special town meeting April 9, 2013, one for a moratorium and the second for consumption.

Mr. Smadbeck moved to put the 2 articles on the special town meeting warrant. Ms. Serpa seconded. Unanimous.

Atty. Rappaport stated that the moratorium would have to go through the Planning Board process because it is a Zoning amendment.

Ms. Dolby stated that the new meeting room in the Police Department was almost finished. They would like to host the Board meeting on March 18th. There will be an open house some point in March before town meeting.

At 4:51pm Mr. Smadbeck moved to adjourn. Ms. Serpa seconded. Unanimous.

Approved:

not present
Michael J. Donaroma, Chairman

Margaret E. Serpa

Arthur Smadbeck
Board of Selectmen

Respectfully submitted,

Kristy Rose
Assistant

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