

SELECT BOARD MEETING MINUTES
MONDAY, JULY 31, 2023
APPROVED

SB Members Present: Peter Cunningham, Chair (virtually present); John Reilly, Vice Chair; Alison Manugian, Clerk; Matt Pisani; Becky Pine

Also Present: Mark Haddad, Town Manager; Kara Cruikshank, Executive Assistant to the Town Manager; Tom Orcutt, Water Superintendent; Dr. Laura Chesson, GDRHS Superintendent; Andrew MacLean, Pepperell Town Administrator; Steele McCurdy, Groton Fire Chief; The Groton Board of Health Members; The Board of Groton Water Commissioners; Greg Sheldon and Joni Parker Roach, Groton Destination Committee; Bob Rafferty and Tyler Schmidt, Environmental Partners

Mr. Reilly called the meeting to order at 7:00 PM and reviewed the agenda.

ANNOUNCEMENT

Mr. Haddad announced that the Town of Groton received their Quarter 2 Groton Community Fund payment check from Groton Hill Music Center in the amount of \$16,594. He also explained that the Town had received a total of \$37,742 in these payments since they began presenting concerts at Groton Hill Music Center in October 2022.

Mr. Haddad announced more great news. He said both the House and Senate have passed the State Budget. The budget includes an increase in Chapter 70 to \$60 per pupil and an allocation of \$100 million for additional funding to the MSBA for the Florence Roche project. That could result in the town receiving \$5.2 million in reimbursement for the additional \$9.5 million needed for the project.

Mr. Haddad said the Town had received notification that the Nashua River Watershed Association's Regional MVP (Municipal Vulnerability Preparedness) Grant had been approved. The Town looks forward to working with our regional partners on this Grant.

Ms. Pine said the State Budget did not allocate the funds requested for the Community Preservation Committee Fund, but there is still a possibility to obtain this funding. She also announced that the Planning Board is required to update the master plan every 10 years, and the work has begun. Consultants have scheduled and are conducting interviews through Zoom. If anyone is interested in participating, please contact Takashi Tada, Land Use Director.

Mr. Haddad announced that the Town's Conservation Administrator will be leaving. He mentioned that a screening committee would search for a new Administrator to fill the vacant position. Mr. Gualco will certainly be missed.

PUBLIC COMMENTS

Mr. McCaffrey called the Board of Water Commissioners to order at 7:07 PM.

Ms. Collette stated that the meeting of the Board of Health convened at 6:30 PM.

TOWN MANAGERS REPORT

- 1. Consider Accepting the Nomination of Veronica O'Donnell and Appoint Ms. O'Donnell to the Conductor Lab Oversight Committee.**

Mr. Reilly made a motion to accept the Town Manager's nomination and appoint Veronica O'Donnell to the Conductor Lab Oversight Committee with a term to expire on June 30, 2024. Ms. Manugian seconded the motion. Roll Call: Reilly-aye; Cunningham-aye; Pisani- aye; Manugian – aye; Pine-aye.

- 2. Final FY 2023 Groton Country Club Budget Review/Update.**

Mr. Haddad said that he was very pleased to report to the Board on the Fiscal 2023 Final Budget of the Groton Country Club. The Country Club continues to perform above expectations, and Fiscal Year 2023 was a record year for the Club in terms of revenue. He said the Club had total revenues of \$794,368.78 in FY 2023, which was \$54,668.77 more than FY 2022 (\$739,700.01), the previous record year. Total expended in FY 2023, including Capital and Overhead, was \$674,656.01. That meant the Club made a profit of \$119,712.77. Mr. Haddad said that was amazing news and a testament to the outstanding management and leadership of Shawn Campbell, General Manager/Head Professional. Mr. Campbell will continue to manage the Club in the most cost-effective way to benefit the taxpayers and residents of Groton.

- 3. Update on Select Board Meeting Schedule Through Labor Day**

Monday, August 7, 2023	No Meeting
Monday, August 14, 2023	Review the First Draft of the Fall Town Meeting Warrant Public Hearing to Set the FY 2024 Stormwater Fee
Monday, August 21, 2023	No Meeting
Monday, August 28, 2023	Regularly Scheduled Meeting
Monday, September 4, 2023	No Meeting (Labor Day Holiday)
Monday, September 11, 2023,	Public Hearing on Fall Town Meeting Warrant Articles

ITEMS FOR SELECT BOARD CONSIDERATION AND ACTION

- 1. Review and Approve the Annual Review of the Town Manager**

Mr. Haddad said he provided the Final Annual Performance Review of the Town Manager to the Select Board members. The Annual Review was posted with the Packet on the Town's website for public review and filed in the Town Clerk's office. He explained that the Board needed to approve the Annual Review formally. Mr. Haddad thanked the Board for the outstanding review they gave him, and he enjoyed meeting with the members individually to discuss the Review and received great feedback.

Ms. Pine said the Town Manager is doing a great job.

Ms. Pine moved that they accept the compilation workbook for the Town Manager's evaluation and accept the Town Manager's annual review for the period ending on June 30, 2023. Mr. Pisani seconded the motion. Roll call: Reilly-aye, Cunningham-aye, Pisani- aye, Manugian – aye, Pine-aye.

2. Review and Consider Setting Annual Goals of the Select Board

Mr. Haddad presented the proposed goals of the Select Board for FY2023 to the Board for review, discussion, and potential adoption. He tried to consolidate and summarize the goals provided by individual members and thanked the Board. The Board reviewed and amended the proposed goals. A copy of the final revised goals is attached and incorporated in these minutes.

3. Approve the Creation of the Destination Groton Gift Fund

The Destination Groton Committee had been receiving donations from various organizations to assist them in carrying out their Charge. They recently received a \$1000 donation from the Johnny Appleseed Trails Association and expect more donations. For the Committee to accept and spend these donated funds, the Select Board would need to approve the creation of the Destination Groton Gift Fund. Mr. Haddad respectfully requested that the Board vote to approve that fund.

Ms. Manugian made a motion to approve the creation of the Destination Groton Gift Fund. Ms. Pine seconded the motion. Roll call: Reilly-aye; Cunningham-aye; Pisani- aye; Manugian – aye; Pine-aye.

4. Approve BYOB Permit for Esquared Hospitality Ventures dba Third Space Kitchen & Events

Ms. Pine made a motion to approve a BYOB Permit for Esquared Hospitality Ventures dba Third Space Kitchen & Events, as requested. Ms. Manugian seconded the motion. Roll Call: Reilly-aye, Cunningham-aye, Pisani- aye, Manugian – aye, Pine-aye.

Ms. Pine asked about the septic capacity of Mill Run Plaza. The Board has asked for a summary report on the sewerage system of the Plaza. Mr. Haddad thought the Plaza was on the Town Sewer System, but would reach out to the Board of Health and report back to the Board.

5. Consider/Determine What Three Days the Board Would Impose the Suspension of the Liquor License for Boston Road Market & Liquors Now that the ABCC has Upheld the Board's Decision to Suspend

Mr. Haddad said the Alcoholic Beverages Control Commission had upheld the three day liquor license suspension of Boston Road Market and Liquor due to selling alcohol to an underage individual. It was now the responsibility of the Select Board to decide which three days the license would be suspended. Mr. Haddad suggested that the license suspension should be on September 1, 2, and 3, 2023.

Ms. Manugian made a motion to suspend the Liquor license for Boston Road Market & Liquors Friday, September 1, 2 and 3, 2023. Ms. Pine seconded the motion. Roll Call: Reilly-aye; Cunningham-aye; Pisani-aye; Manugian – aye; Pine-aye.

REVIEW AND CONSIDER APPROVAL OF PREFERRED OPTION TO ADDRESS PFAS AS THE GROTON DUNSTABLE REGIONAL HIGH SCHOOL

Andrew MacLean, the Town Administrator of Pepperell, was joined by Tyler Schmidt and Robert Rafferty, engineers from Environmental Partners, Dr. Laura Chesson, GDRSD Superintendent, as well as members of the Groton Board of Health and the Board of Water Commissioners, for a discussion. After significant discussion and collaboration with the Pepperell and Dunstable Town Administrators, Mr. Haddad stated that there were two potential solutions to address PFAS at the Groton Dunstable Regional High School. They are the Regional Solution, which involves connecting directly to the Jersey Street Well in Pepperell, and the Groton Solution, which involves connecting directly to the Whitney Well in Groton. He walked the Board through the memorandum provided to the Select Board with the final options and a recommendation (reference memorandum dated July 31, 2023 attached to these minutes).

Mr. Haddad said that he understood both the Board of Health and the Board of Water Commissioners were opposed to any solution that would bring water to the High School with PFAS levels greater than 4 PPT (parts per trillion). He wanted to recommend a solution that would meet current PFAS standards, address future PFAS standards, and be the most cost-friendly to the taxpayers of Groton. He strongly recommended that the Select Board approve moving forward with the Regional Solution. He asked the members of the Board if they had any questions or comments.

Ms. Pine said the Groton Solution might be necessary if PFAS became a concern in the future and the state-mandated action for residents not on piped water.

Mr. Reilly stated that plant in Pepperell was being constructed and would be under the limit for required standards when completed.

Mr. Pisani believed that pursuing the Groton Solution would help their community. Mr. Haddad stated that the Select Board needs to take into consideration the position of the Town of Dunstable when making a decision. Dunstable was in favor of the Regional Solution as it was the most cost effective and would meet EPA regulations when completed.

Ms. Pine believed there were risks in either solution.

Ms. Pine asked Mr. Haddad what Town Meeting in Groton would need to consider. Mr. Haddad informed her that they would need to present a final proposal at the upcoming Fall Town Meeting in October and seek approval for a Special Election for a debt exclusion, as the Town would need to exempt the debt service on this project from Proposition 2½ due to the annual debt service payment.

Public Comments

Groton Board of Health Chair Michelle Collette said a unanimous vote was carried by the Town of Groton Board of Health and would not be in support of any water option for the Groton Dunstable High School and its surrounding areas that do not meet the Proposed Environmental Protection Agency standards of 4 parts per trillion. She explained that the Groton Board of Health recently adopted new regulations for wells, including

PFAS, due to public health concerns. She thought it would be beneficial if the school could continue providing water in the interim.

Mr. MacLean stated that their goal was to ensure clean water to all their resident and share their values of 0 PPT of PFAS. He said the upgrade to the Jersey Street Well would take approximately twenty-four to thirty-six months to complete.

GDRSD Superintendent Dr. Chesson said that irrigation costs the school district approximately \$100,000 annually. The cost of drinking and cooking water is estimated to be between \$30 and \$40 per month. The school district could continue to pay for the drinking and cooking water in the interim until the Pepperell Plant upgrade to treat PFAS is completed.

Evan Thackaberry, a Groton Board of Health member, stated that if the school continued to provide bottled water for drinking and cooking water, it would change his perspective.

Board of Water Commissioners Chair Jack McCaffrey stated that the Groton Water Commissioners would pay \$1 million upfront to offset the cost of the Project if the Board moved forward with the Groton Solution.

Finance Committee Chair Mr. Robertson believed that the more expensive Solution, the Groton Solution, might be better. He said there were too many unknowns in 30 years, and many issues could arise. He explained that PFAS is ever-changing. He expressed his opposition to a three-party decision-making process, especially when the town is not in control. He noted that the Groton Solution would only increase the average tax bill by approximately \$25 per year.

Ms. Pine made a motion to endorse the Regional Solution and direct the Town Manager to proceed. Mr. Cunningham seconded the motion. Roll call: Manugian-nay; Pisani-nay; Reilly-nay; Pine-aye; Cunningham-aye. The motion was defeated by a majority vote of 3 Against, 2 in Favor -Pine and Cunningham.

Mr. Haddad advised that a new vote would need to be taken.

Ms. Manugian made a motion to authorize the Town Manager to move forward with the Groton Solution. Mr. Pisani seconded the motion. Roll call: Reilly-aye; Cunningham-aye; Pisani-aye; Cunningham-aye; Manugian-aye.

Ms. Pine stated she would have difficulty defending this motion at Town Meeting.

Mr. Haddad wanted to thank Mr. MacLean for attending the meeting that evening and working collaboratively with him. Ms. Manugian clarified that her vote was based solely on too many unknowns regarding the Regional Solution. Mr. Reilly said he appreciated the Boards and Commissions, and they will proceed to Town Meeting to see how it goes.

OTHER BUSINESS

ON-GOING ISSUES

C. The work on the Green Communities Application and Implementation has been completed. Takashi Tada will file the final report by the August 31st deadline. The town is now prepared to apply for the next round of funding in the fall.

Approval of Minutes from July 17, 2023

Mr. Reilly made a motion to approve the minutes of the regularly scheduled meeting from July 17, 2023 as presented. Mr. Pisani seconded the motion. Roll Call: Manugian-aye; Cunningham-aye; Reilly-aye; Pisani-aye; (Pine- Abstained).

The meeting was adjourned at 8:40 pm.

Respectively submitted by Kara Cruikshank, Executive Assistant to the Town Manager.

FISCAL YEAR 2024

GOALS OF THE GROTON SELECT BOARD

1. Environmental Contamination Issues

Select Board Member Assigned: Alison Manugian and Peter Cunningham

Goal: Oversee Implementation of best solution to address PFAS at the Groton Dunstable Regional High School

Measurable Benchmark: Present Final PFAS Solution for the High School at the 2023 Fall Town Meeting. Begin Design and Permitting immediately and construction by the Spring/Summer 2024.

2. Climate Change

Select Board Member Assigned: Alison Manugian

Goal:

1. Work with GELD Commissioners on Climate Change Initiatives and the transition to a new GELD General Manager.
2. Support efforts to inform and educate Town residents about opportunities to reduce energy use and costs.

Measurable Benchmark: Schedule workshop with Sustainability Commission, the Electric Light Commission and Electric Light General Manager to discuss transition plans and Climate Change Initiatives. Workshop should be scheduled by December 31, 2023, with any follow-up taking place as soon as possible after the Workshop.

3. Master Plan

Select Board Member Assigned: All Members

Goal: Participate and Stay involved in the process to create Groton's updated Master Plan buildings.

Measurable Benchmark: Schedule quarterly meetings with the Planning Board and/or Town Planner to receive updates on the progress of the Master Plan Update beginning in September, 2023.

4. Reducing Costs of Government
Select Board Member Assigned: Matt Pisani

Goal: Explore ways to reduce costs of Government. Continue to review and explore ways to expand PILOTS. Seek Federal and State Grants for town projects whenever possible.

1. Work with Town Manager's Tri-Comm Working Group and all municipal departments to understand and establish a sustainable budget and understand whether or not an override of Proposition 2½ is necessary.
2. Support Warrant Article to amend Charter to bring Groton's Budget timeline more in line with GDRSD Budget timeline.
3. Explore and seek alternatives to reduce the tax burden on elderly and less affluent residents.
4. Continue to work with the various Non-Profit organizations in Groton on PILOT payments

Measurable Benchmark: After Presentation from Tri-Comm in October, determine and support, if necessary, need for Override to support budget goals by December 31, 2023.

5. Affordable Housing
Select Board Member Assigned: Becky Pine

Goal: Support the work of Groton's Housing Committees and monitor progress of the two current Chapter 40B applications before the Zoning Board of Appeals. Determine impact on municipal services. In conjunction with the Planning Board, develop amendments to the Town's Bylaws to increase and improve affordable housing and diversity of housing stock.

Measurable Benchmark: Schedule Meeting with Public Safety Officials by December 31, 2023 to determine impact of all housing projects on municipal services.

6. Diversity, Equality and Inclusion
Select Board Member Assigned: Becky Pine

Goal: Support work of Diversity, Equity, and Inclusion Committee and the Native Peoples Recognition Group to expand the Town's approach to, and understanding of, its history to include the centuries prior to the Town's 1655 founding.

Measurable Benchmark: Schedule Update with Diversity Equity and Inclusion Committee by February 15, 2024. Update timeline of Town's History in conjunction with the Diversity Equity and Inclusion Committee.

7. Town-wide Examination of Traffic Patterns, Speed Limits, Road Designs, Etc.
Select Board Member Assigned:

Goal: Identify High Volume Areas, High Accident Areas and Localities of Increased Citizen Complaints. Consider Paving Unpaved Road between Broadmeadow Road and Station Avenue, Acquire Playground Road. Address flooding on Broadmeadow Road

Measurable Benchmark: Schedule Workshop with Police Chief and DPW Director by December 31, 2023 to determine best way to address these issues.

Sustainability Commission

Number of Members	Method of Selection	Length of Term	Remuneration
12	Appointed	Yearly	None

Preamble: Many of the effects of the worsening global climate crisis are already evident in the region and in the town of Groton and are growing. This increases the urgency of the Commission's role in helping guide and act as a resource for the Town that balances our environmental sustainability with maintaining our economic and social vitality.

Purpose: The purpose of the Sustainability Commission is to focus and coordinate the Town's sustainability efforts and to provide guidance and expertise for the Town to become a measurably more sustainable community.

Responsibilities: The responsibilities of the Commission encompass assisting all generations of residents, town agencies and boards in the planning and implementation of their activities in a way that maximizes preservation of natural resources, including climate, and integrates climate resilience and adaptation where appropriate

Those include:

- Providing sustainability materials and advice to influence Town plans, policies, operations, and bylaws to ensure that increasing sustainability and resilience to climate change is a guiding principle.
- Identifying key resources and finding and developing deep expertise in the key aspects of community sustainability and climate resilience.
- Raising awareness regarding the challenges of climate change and actions that could/should be taken for the public and Town officials and boards through outreach, education, and involvement.
- Developing a clearinghouse of useful sustainability/resilience information and pointers to other experts for use by Town officials and residents
- Identifying key sustainability metrics for Groton, measuring them to monitor progress, and providing recommendations to Town officials for meeting State requirements and Town goals.
- Identifying potential Federal, State, Regional, and private funding opportunities for projects to further the Town's sustainability efforts and helping prepare the grant applications for them.
- Collaborating with neighboring communities and regional partnerships to help further our progress toward sustainability, as well as other initiatives.

In the course of its work, the Sustainability Commission will establish specific programs to support these responsibilities, and the Commission will prepare and provide an Annual Report to inform the Town of the Commission's activities, accomplishments, and how well the Town is progressing toward its sustainable community goals.

Legal Authority

Local:

Approved by the Groton Select Board, July xx, 2023



*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150-2358*

Jean M. Lorizio, Esq.
Chairman

DECISION

**OMAH REALTY LLC D/B/A BOSTON ROAD MARKET & LIQUOR
871 BOSTON ROAD
GROTON, MA 01450
LICENSE#: 00009-PK-0476
HEARD: 5/11/2022**

This is an appeal from the action of the Town of Groton Licensing Board (the "Local Board" or "Groton") for suspending the § 15 all alcoholic beverages package store license of Omaha Realty LLC d/b/a Boston Road Market & Liquor ("Licensee" or "Boston Road Market") located at 871 Boston Road, Groton, MA, for three (3) days. The Licensee timely appealed the Local Board's decision to the Alcoholic Beverages Control Commission (the "Commission" or "ABCC"), and a remote hearing was held via Microsoft Teams on Wednesday, May 11, 2022.

At the conclusion of the May 11, 2022, hearing, the Commission left the record open until the close of business on May 18, 2022, for the Licensee and Local Board to submit additional documents. The Licensee and Local Board submitted their documents in a timely manner and the record is now closed.

The following documents are in evidence as exhibits:

1. Licensee's Notice of Appeal;
2. Documents re: Security System Upgrade;

- A. Groton Select Board Decision, 11/9/2021;
- B. Groton Select Board Decision, 3/9/2022;
- C. Groton Select Board Meeting Minutes, 3/7/2022.

There is one audio recording of this hearing and 5 witnesses testified.

FINDINGS OF FACT

The Commission makes the following findings based on the evidence presented at the hearing:

1. Omaha Realty LLC d/b/a Boston Road Market & Liquor ("Licensee" or "Boston Road Market") holds an all-alcoholic beverages license and operates a business at 871 Boston Road, Groton, Massachusetts. Piyush Patel is President, Treasurer, and Clerk of the corporation. (Commission Records)
2. On February 4, 2022, at approximately 6:00 p.m., Groton Police Sergeant Kevin Henehan conducted a routine inspection of Omaha Realty LLC d/b/a Boston Road Market & Liquor. (Testimony, Exhibit B)
3. Sgt. Henehan pulled into Boston Road Market's parking lot and observed a youthful-looking male individual exit his vehicle and enter the establishment. Id.
4. Sgt. Henehan parked his vehicle behind that of the youthful-looking male. Sgt. Henehan ran a registration check on the vehicle and the results indicated one of the owners' date of birth was 5/12/2001 (age 20). Sgt. Henehan looked at the registry photo of that individual and noted it was the same male he saw walk into the licensed premises moments earlier. Id.
5. Approximately 5 minutes after Sgt. Henehan observed the male enter the licensed premises, he observed him exit the establishment in possession of alcoholic beverages, a 12 pack of Happy Dad Hard Seltzer. The male put the alcoholic beverages in his trunk and shut the trunk. Sgt. Henehan then rolled down his window and spoke to the male; he identified himself and asked the male for his date of birth. The underage individual admitted he was not yet 21 years of age. He provided to Sgt. Henehan his true identification, and a fraudulent identification which Sgt. Henehan confiscated. Id.
6. Within approximately 10 to 15 minutes of the male exiting the store with the alcoholic beverages, Sgt. Henehan entered the licensed premises and spoke to Brian Bellew, the clerk on duty. Sgt. Henehan inquired about the sale to the underage individual and asked if Mr. Bellew had requested identification from him. Sgt. Henehan requested that Mr. Bellew inform the Licensee to save the store's video surveillance to present to the Local Board. Id.
7. Mr. Bellew's practice is to request identification from every patron who appears to be under 30 to 32 years of age. He had requested identification from the last 5 to 6 patrons who came into the store prior to Sgt. Henehan but did not specifically recall the male who purchased the 12 pack of Happy Dad Hard Seltzer. (Testimony)
8. Mr. Bellew relayed Sgt. Henehan's message to the Licensee regarding saving his video surveillance to present to the Local Board. The Licensee was unable to retrieve the video surveillance from February 4, 2022. Id.
9. On Monday, March 7, 2022, the Local Board held a virtual hearing on the Licensee's alleged violation of 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Ch. 138, § 34 – Sale or delivery of an alcoholic beverage to a person under 21-years of age which occurred on February 4, 2022. (Testimony, Exhibit B)

10. The Local Board previously found the Licensee in violation of Ch. 138, § 34 as a result of a sale of alcoholic beverages which occurred October 22, 2021. The Local Board issued a warning for said violation. (Testimony, Exhibit A)
11. By decision dated March 9, 2022, the Local Board found the Licensee in violation and given this was the 2nd violation within 4 months, voted to suspend its license for a period of three (3) days. Id.
12. The Licensee timely appealed the Local Board's decision to the ABCC. (Exhibit 1)

DISCUSSION

Pursuant to M.G.L. Ch. 138, §67, "[t]he ABCC is required to offer a de novo hearing, that is to hear evidence and find the facts afresh. As a general rule the concept of a hearing de novo precludes giving evidentiary weight to the findings of the tribunal from whose decision an appeal was claimed." Dolphino Corp. v. Alcoholic Beverages Control Comm'n, 29 Mass. App. Ct. 954, 955 (1990) (citing United Food Corp. v. Alcoholic Beverages Control Comm'n, 375 Mass. 240 (1978)). The findings of a local licensing board are "viewed as hearsay evidence, [and] they are second-level, or totem pole hearsay, analogous to the non-eyewitness police reports in Merisme v. Bd. of Appeals on Motor Vehicle Liab. Policies and Bonds, 27 Mass. App. Ct. 470, 473 – 476 (1989)." Dolphino, 29 Mass. App. Ct. at 955.

Both the local board and the Commission have the authority to grant, revoke, and suspend licenses. Their powers were authorized "to serve the public need and . . . to protect the common good." M.G.L. c. 138, §23, as amended through St. 1977, c. 929, §7. "[T]he purpose of discipline is not retribution but the protection of the public." Arthurs v. Bd. of Registration in Medicine, 383 Mass. 299, 317 (1981). The Commission is given "comprehensive powers of supervision over licensees," Connolly v. Alcoholic Beverages Control Comm'n, 334 Mass. 613, 617 (1956), as well as broad authority to issue regulations. The local board has authority to enforce Commission regulations. New Palm Gardens, Inc. v. Alcoholic Beverages Control Comm'n, 11 Mass. App. Ct. 785, 788 (1981).

These "comprehensive powers" are balanced by the requirement that the local board and the Commission provide notice to the licensee of any violations, as well as an opportunity to be heard. M.G.L. c. 138, §64. In addition, the local board has the burden of producing satisfactory proof that the licensee violated or permitted a violation of any condition thereof, or any law of the Commonwealth. M.G.L. c. 138, §§ 23, 64.

The Commission's decision must be based on substantial evidence. See Embers of Salisbury, Inc. v. Alcoholic Beverages Control Comm'n, 401 Mass. 526, 528 (1988). "Substantial evidence" is "such evidence as a reasonable mind might accept as adequate to support a conclusion." Id. Evidence from which a rational mind might draw the desired inference is not enough. See Blue Cross and Blue Shield of Mass. Inc. v. Comm'r of Ins., 420 Mass. 707 (1995). Disbelief of any particular evidence does not constitute substantial evidence to the contrary. New Boston Garden Corp. v. Bd. of Assessor of Boston, 383 Mass. 456, 467 (1981).

The Licensee was charged with a violation of 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Ch. 138, § 34 – Sale or delivery of an alcoholic beverage to a person

under 21-years of age. General Laws Chapter 138, § 34 provides, in part, that “[w]hoever makes a sale or delivery of any alcoholic beverages or alcohol to any person under 21 years of age, either for his own use or for the use of his parent or any other person, ...shall be punished.” M.G.L. c. 138, § 34.

Here, the Local Board presented eyewitness testimony from a police officer who observed a person, later determined to be under 21 years of age, enter the licensed premises and shortly thereafter, exit the licensed premises in possession of alcoholic beverages.

The Licensee acknowledged the sale but argued that his employee checked the identification of the underage individual and explained the difficulty of determining whether an identification is fraudulent or legitimate.

General Laws chapter 138, § 34B provides, in pertinent part, that [a]ny licensee, or agent or employee thereof, under this chapter who reasonably relies on such a liquor purchase identification card or motor vehicle license issued pursuant to section eight of chapter ninety, or on an identification card issued under section 8E of chapter 90, or on a valid passport issued by the United States government, or by the government, recognized by the United States government, of a foreign country, or a valid United States issued military identification card, for proof of a person's identity and age shall not suffer any modification, suspension, revocation or cancellation of such license, nor shall he suffer any criminal liability, for delivering or selling alcohol or alcoholic beverages to a person under twenty-one years of age. Any licensee, or agent or employee thereof, under this chapter, who reasonably relies on such a liquor purchase identification card, or an identification card issued under section 8E of chapter 90, or motor vehicle license issued pursuant to said section eight, for proof of a person's identity and age shall be presumed to have exercised due care in making such delivery or sale of alcohol or alcoholic beverages to a person under twenty-one years of age. Such presumption shall be rebuttable. M.G.L. c. 138, § 34B

M.G.L. c. 138, § 34B offers protection from license revocation or criminal penalties to license holders who reasonably rely on one of the six forms of identification as specified in the statute. In order to invoke the protection accorded to a license holder under §34B, a license holder must obtain proof of age prior to the purchase of alcoholic beverages through reliance on one of the six legislatively approved forms of identification.

The Commission is persuaded and finds by substantial evidence that the Licensee sold alcoholic beverages to a person under 21 years of age in violation of M.G.L. c. 138 § 34.

The Commission finds that the Licensee is not afforded the protection of M.G.L. c. 138, § 34B as there was no evidence that one of the acceptable forms of identification was presented prior to the sale of alcoholic beverages to the underage individual.

The Commission finds that the imposed suspension was not arbitrary and capricious but rather was a reasonable exercise of the Local Board's lawful discretion and supported by the record.

CONCLUSION

The Alcoholic Beverages Control Commission ("Commission") **APPROVES** the action of the Groton Select Board in finding a violation of 204 CMR 2.05 (2) Permitting an Illegality on the Licensed Premises, to wit: Ch. 138, § 34 – Sale or delivery of an alcoholic beverage to a person under 21-years of age. The Commission **APPROVES** the action of the Groton Select Board in suspending the license for 3-days.

ALCOHOLIC BEVERAGES CONTROL COMMISSION

Jean M. Lorizio, Chairman

Crystal Matthews, Commissioner

Deborah Baglio, Commissioner

Dated: July 11, 2023

You have the right to appeal this decision to the Superior Courts under the provisions of Chapter 30A of the Massachusetts General Laws within thirty (30) days of receipt of this decision.

This document is important and should be translated immediately.
Este documento es importante y debe ser traducido inmediatamente.
Este documento é importante e deve ser traduzido imediatamente.
Ce document est important et devrait être traduit immédiatement.
Questo documento è importante e dovrebbe essere tradotto
immediatamente.

Το έγγραφο αυτό είναι σημαντικό και θα πρέπει να μεταφραστούν αμέσως.

这份文件是重要的，应立即进行翻译。

यह दस्तावेज़ महत्वपूर्ण है और इसका तुरंत अनुवाद किया जाना चाहिए

Dokiman sa a enpòtan epi li ta dwe tradwi touswit

'Đây là tài liệu quan trọng và cần được dịch ngay'

ឯកសារនេះសំខាន់ណាស់ ហើយត្រូវបកប្រែជាបន្ទាន់។

2022-000032-ad-enf

cc: Piyush Patel
Local Licensing Board
Frederick G. Mahony, Chief Investigator
Administration, File



TOWN OF GROTON

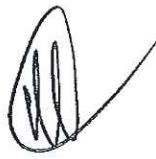
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Select Board

Peter S. Cunningham, *Chair*
John F. Reilly, *Vice Chair*
Alison S. Manugian, *Clerk*
Rebecca H. Pine, *Member*
Matthew F. Pisani, *Member*

Town Manager
Mark W. Haddad

To: *Select Board*

From: *Mark W. Haddad – Town Manager* 

Subject: *Recommendation to Address PFAS at GDRSD High School*

Date: *July 31, 2023*

The purpose of this memorandum is to provide the Select Board with the final options and a recommendation to address PFAS at the Groton Dunstable Regional High School. To summarize, we have been investigating various ways to bring clean, potable drinking water to the High School and the surrounding properties in Dunstable. We have focused on two solutions:

1. Regional Solution - Connect Directly to the Jersey Street Well in Pepperell
2. Groton Solution - Connect Directly to the Whitney Well in Groton

Regardless of the chosen solution, the Towns of Groton and Dunstable will be responsible for the cost of this project. It is anticipated that the cost share will be seventy-seven (77%) percent to Groton and twenty-three (23%) percent to Dunstable based on the current student ratio at the High School. I have spoken with Town Counsel about how an Intermunicipal Agreement would be negotiated/structured and he has informed me that due to the fact that he is Town Counsel for both Groton and Dunstable and to avoid a conflict of interest, we would need to enter into a three-way (Groton, Dunstable and the Regional School District) Intermunicipal Agreement (IMA) to allow him to advise us on the project. I am in the process of working this out between the parties. The Select Boards in Groton and Dunstable and the Groton Dunstable Regional School District Committee will need to approve this IMA. Once this IMA for legal services is established, we will be able to finalize how an IMA for the cost share would be structured, including how it would be approved by the three entities. I will report back to the Select Board when this is finalized.

As part of our review of the solutions, it is important to understand the current and anticipated future regulations concerning PFAS levels in drinking water. Currently, the Massachusetts Department of Environmental Protection (DEP) has a regulation of 20 parts per trillion (PPT), while the Federal Environmental Protection Agency (EPA) has an advisory of 70 PPT. It is anticipated that the EPA will change their advisory to a regulation of 4 PPT. This new standard should be coming out this Fall. It is expected that public drinking suppliers will have three years to meet this new Federal regulation.

To help the Board make a final decision, I would like to provide a summary of the two solutions, providing pros and cons, as well as, cost information. Please consider the following:

Regional Solution

Under this solution, a water main would be installed from the Pepperell Jersey Street Well to the Groton Dunstable Regional High School and surrounding properties in Dunstable whose groundwater has detectable

levels of PFAS above 20 PPT. Currently, the Jersey Street Well has been testing anywhere between 0 and 16.5 PPT of PFAS. This is under the current DEP regulation of 20 PPT. It is important to note that Pepperell currently utilizes two wells to supply water to its residents; Jersey Street and Bemis. Both wells would provide water to the High School and the surrounding properties in Dunstable. The following Chart shows the PFAS testing results of the two wells for 2022:

Sample source	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
Bemis	0	no test	no test	0	no test	no test	2.4	no test	no test	<2.0	no test	
Jersey	8.75	10.5	9.85	11.4	15.1	13.1	11.2	16.5	8.98		11.5	

To address PFAS at the Jersey Street Well and in anticipation of the new EPA regulation, the Pepperell Town Meeting has appropriated funds to upgrade the Jersey Street Treatment Plant to treat PFAS. It is expected that this project will be completed in the next two to three years. Please note that Pepperell has received approval for their pilot program and will be ready to start construction on their new plant within the next year. In addition, there would be no additional appropriation from Groton to cover any plant upgrade. The cost would be factored in the rates. At this time, it is difficult to determine what the rate impact would be as Pepperell has not determined how much assistance they will get from the State to offset the cost of the upgrade. For now, Pepperell's rate for Tier 3 is a quarterly charge of \$30, plus \$0.100 per cubic foot. Based on these rates and anticipated water usage (worst case, including irrigation) at the High School, it is anticipated that the annual cost of water from Pepperell would be approximately \$64,000. Based on the cost of the Plant upgrade, at this time it is anticipated that this annual rate would increase by \$10,000 to cover the cost of the construction. In addition, as part of our review of this solution, we examined interim temporary treatment of the water to bring it to the new EPA regulation. However, we found this to be cost prohibitive, especially in light of the fact that they comply with the current DEP standard and will meet the new EPA Standard when required.

That said, Pepperell's water system on Jersey Street is 0.6 miles away from the High School. When adding the surrounding properties in Dunstable to the water main, the total length will be approximately 3.19 miles. Engineers for the Town of Groton and Town of Pepperell have done an in-depth analysis of hydraulics, pipe size, etc. (see attached memorandum from Environmental Partners) and have determined that the cost to construct this water main is \$8,482,699. In anticipation of receiving State Revolving Fund Loans at zero interest for the project, and paying it back over thirty (30) years, Groton's share would be \$6,531,678, or \$217,722 annually, while Dunstable's cost would be \$1,951,021, or \$65,034 annually. To pay Groton's share, we would need a Debt Exclusion Override of Proposition 2½. Based on Fiscal Year 2024 values, this would add \$0.09 to the tax rate and cost the average tax payer (home valued at \$633,985) \$57.06 annually (total of \$1,711.80 in total over 30 years).

Please note that this solution would not provide temporary treatment for PFAS. In addition, there would be no additional permitting required from the State as both the Jersey Street Well and the High School are in the Nashua River Watershed. There may be local Conservation Commission approvals needed; however, this solution can be implemented almost immediately (upon Town Meeting approval and Debt Exclusion Override Vote) with construction lasting approximately 15 months. This is an important factor as another consideration is irrigation of the various playing fields at the High School on a temporary basis while the new water main is installed. The District has come up with a temporary solution to address irrigation by trucking in water at a cost of between \$75,000 and \$100,000 per year. It is important to eliminate this cost as soon as possible.

Groton Solution

Under this solution, a water main would be run from Groton's Whitney Well to the High School and surrounding properties in Dunstable. It is approximately 3.5 miles away and would run from Hollis Street to the High School on Chicopee Row. An added advantage of this solution is that fire protection can be provided to the residents of Chicopee Row that does not currently exist. In addition, some of the cost of the project may be offset by residents willing to connect to Town water on Chicopee Row.

Currently, Groton has historically tested at 2.04 PPT for PFAS, well under the anticipated EPA regulation. Regardless of the current levels, the Groton Water Commission has begun designing for an upgrade to the new Whitney Well Treatment Plant to treat for PFAS. The current rate payers will be responsible for the cost of this upgrade. With regard to the annual water bill at the High School, using the same anticipated usage as the Regional Solution, the annual cost of water from Groton would be \$55,000. It is too early to determine the impact on the rates of any PFAS upgrade at the Whitney Well Plant, but I would assume it would be in the same range as Pepperell's added cost. Design and construction of this solution is relatively straightforward. The anticipated cost of the project is \$12,801,193. Based on the split previously discussed, Groton's share would be \$9,856,982, or \$328,564 annually, while Dunstable's would be \$2,944,211, or \$98,140 annually. As with the Regional Solution, we would need a Debt Exclusion Override of Proposition 2½ to pay for the debt service on this project. Based on Fiscal Year 2024 values, this would add \$0.13 to tax rate and cost the average tax payer (home valued at \$633,985) \$82.42 annually (total of \$2,472.60 in total over 30 years).

Besides costing more than the Regional Solution, another important factor that could impact costs is permitting. Based on discussions with the DEP and the Division of Conservation and Recreation, permitting can take almost two years for this solution and is sure to increase the total cost. This will also impact the temporary irrigation solution at \$75,000 and \$100,000 per year. Finally, based on the timeline provided for this solution and Pepperell's anticipated timeline for the Jersey Street Plant upgrade, by the time the water line is run from Groton to the High School, the Jersey Street Well will be treated for PFAS. This is a very important consideration.

Recommendation

Understanding that both the Board of Health and the Board of Water Commissioners are opposed to any solution that brings water to the High School with PFAS levels great than 4 PPT (see attached memos from the Board of Health and Board of Water Commissioners), I am recommending a solution that meets current PFAS standards, will address future PFAS standards, and will be the most cost friendly to the taxpayers of Groton. Based on this, I am strongly recommending that the Select Board approve moving forward with the Regional Solution. I look forward to discussing this in more detail at Monday's meeting.

MWH/rjb

cc: Finance Committee
Dr. Laura Chesson, GDRSD Superintendent
Sherry Kersey, GDRSD Director of Business
Board of Water Commissioners
Board of Health
Town of Pepperell
Town of Dunstable

enclosures