

IN BOARD OF SUDBURY SELECTMEN
THURSDAY, AUGUST 20, 2015
EXECUTIVE SESSION (6:34 P.M. – 7:25 P.M)

Present: Chairman Patricia A. Brown, Vice-Chairman Susan N. Iuliano, Selectman Charles C. Woodard, Selectman Leonard A. Simon, and Interim Town Manager Maryanne Bilodeau; Attorney Peter L. Mello

VOTED: At 6:34 p.m., Chairman Brown open the meeting in the Flynn Building, Silva Conference Room, and vote to immediately enter into Executive Session to consider whether to file with the Bankruptcy Court and the proceedings attached In Re: Erica S. Cannarozzi, Debtor, Chapter 13, Case No. 15-41258-MSH under c. 30A, §21(a)(3), (pertaining to Erica's Restaurant) to consider strategy with respect to potential litigation where an open session could have a detrimental effect on the litigating position of the public body; and if town counsel is present, also under c. 30A, §21(a) (7), to comply with the requirements of any general or special law (attorney-client privilege).

Also discuss the purchase, exchange, lease or value of real property, specifically the Wayland-Sudbury Septage Facility, if such discussion may have a detrimental effect on the negotiating position of the government body (exception 6). Also to discuss strategy with respect to collective bargaining if an open meeting may have a detrimental effect on the bargaining position of the public body and the chair so declares (exception 3).

Chairman Patricia A. Brown, aye, Selectman Charles C. Woodard, aye, Vice-Chairman Susan N. Iuliano, aye, Selectman Leonard A. Simon, aye

Selectman Robert C. Haarde arrived at 6:49 p.m.

Erica's Restaurant

Interim Town Manager explained that the Board had approved the application for a Restaurant License for the Sale of All Alcoholic Beverages for Carlisle River, Inc. d/b/a Erica's Restaurant at 470 North Road subject to two conditions, which is in their packet. One of these conditions was that all of the Real Estate Taxes due to the Town for the property located at this address be paid within thirty days after the ABCC approved the license. The license was approved on July 1st and the taxes have not been paid as of yet. On August 4th, Sam Cannarozzi called to say that they are in bankruptcy and he wanted an additional 90 days while he deals with his first mortgage issue and wants to know what he can do to save the liquor license.

Upon Interim Town Manager Bilodeau's response that he needed to seek advice from his own counsel, Mr. Cannarozzi responded that he is without representation on this matter and that Bob Dionesi (his counsel) told him to straighten this out with the Town and to let the Town know that he doesn't represent Erica's in this part of the case.

Interim Town Manager Bilodeau noted that the current amount of taxes due today is \$45,656.15, and that in the Board's packet was their 4/28 vote approving this liquor license as well as a copy of the Bankruptcy Notice Information for Erica Cannarozzi.

Attorney Peter Mello discussed the Board's choices regarding this liquor license:

1. Proceed with license revocation, or
2. File motion for relief from automatic stay.
3. Seek clarification from the Bankruptcy Court by filing a motion t for relief from the stay or that the town is exempt from this stay.
4. Wait to see what happens at the September 10th Hearing on the pending Motion to Dismiss that was filed by a creditor. Hopefully the court would rule within a few weeks, though it is possible that the judge could take the matter under advisement and it could be days, weeks, months or more. The timing of the ruling is within the Court's discretion.

There was discussion as to whether the Board needed to hold a hearing, and whether the status of the license given that it had not been physically delivered as back taxes had not been paid. Attorney Mello felt that we would regardless of whether the license had physically been received, because the Board voted to approve the license; however, he would check into this if need be.

Another comment was made as to why we are dealing with Sam who specifically extracted himself from getting this license so they could get it and that Erica Cannarozzi was the one who applied for the license.

Selectman Simon suggested the Board choose not to extend the time.

Attorney Mello noted we would need a hearing before revoking the license, and further noted that the ABCC can be licensee friendly and likely would look with a jaundiced eye upon unilateral revocation without a hearing.

The question was raised as to what is the cost for the Town to file for relief from the automatic stay from the Bankruptcy Court to which Attorney Mello responded that the earlier estimate of \$3,000-\$5,000 was fair. (The court would schedule a hearing and Town Counsel would need to attend (5 hours plus travel – this was all an estimate.)

Attorney Mello also said that if the Board revoked the license and it was against the stay then there could be costly ramifications for the Town. Ultimately, he saw no downside of waiting.

Another question raised was, would a bankruptcy hearing on 9/1 impact any of this? Attorney Mello will discuss this issue with Town Counsel Barbara Saint Andre.

Selectmen Simon moved that at this time Town Counsel be instructed not to take any further legal action regarding Erica Cannarozzi's liquor license regarding proceedings in the federal Bankruptcy Court, and further that Town Counsel will keep the Board informed of any proceedings in Bankruptcy Court especially related to Erica's.

Selectman Woodard seconded the motion.

All voted in favor of the motion by roll call vote:

Chairman Patricia A. Brown, aye, Selectman Charles C. Woodard, aye, Vice-Chairman Susan N. Iuliano, aye, Selectman Leonard A. Simon, aye, and Selectman Robert Haarde, aye.

Wayland Septage Facility

Selectman Woodard reviewed the agreement terms for the revised Inter-municipal Agreement (IMA) between the Towns of Wayland and Sudbury for the Septage Disposal Facility Disposition as noted in the Board's packet.

Selectman Woodard and Wayland Selectman Cherry Karlson have agreed upon these terms and our Town Counsel has approved. If they come back with any major changes then we may not have an agreement.

Interim Town Manager Maryanne Bilodeau shared that in Wayland's Rivers Edge Advisory Committee meeting minutes from 8/3 it states that their Board of Selectmen review of RFP on July 27 was approved by a 4-0 vote and an anticipated release date is September 1.

Selectman Simon moved to approve the terms and the draft agreement with Wayland for the Septage Facility containing the terms included in pages 12 through 16 of the Board of Selectmen's 8/20/15 Executive Session Packets.

Selectman Iuliano seconded the motion.

All voted in favor of the motion by roll call vote:

Chairman Patricia A. Brown, aye, Selectman Charles C. Woodard, aye, Vice-Chairman Susan N. Iuliano, aye, Selectman Leonard A. Simon, aye, and Selectman Robert Haarde, aye.

Collective Bargaining - Cost of Living Adjustment – Discussion

Interim Town Manager Bilodeau provided the Board with an update regarding collective bargaining.

At this point she's been able to stay within the limits of the COLA's that the Board voted in July, and has confirmed with our new Finance Director that it's affordable for the Town.

She stated that she's getting close to finalizing agreements with the DPW and the Supervisory Groups. As mentioned previously, the supervisory group is looking for Personal Days and she's considering offering them two and allowing them to use one sick day as a personal day.

We are not as competitive as other communities for sick time, holidays and personal time. Other communities give up to 15 sick days; we give 12. Others give up to 4 personal days; we give none. She thinks giving 2 is fair.

They asked for additional vacation days and we feel we're competitive in that area. In addition to this, vacation time is earned time and has to be paid out if someone leaves. Personal days don't.

Interim Town Manager Bilodeau said that she would update the Board when she has more to share.

VOTED: At the conclusion of Executive Session, Chairman Brown moved to convene in Regular Session in Lower Town Hall. If necessary, the Executive Session will be suspended at 7:25 PM and resumed at the end of the Regular Session.

All voted in favor of the motion by roll call vote:

Chairman Patricia A. Brown, aye, Selectman Charles C. Woodard, aye, Vice-Chairman Susan N. Iuliano, aye, Selectman Leonard A. Simon, aye, and Selectman Robert Haarde, aye.

There being no further business, Executive Session adjourned at 7:25 PM.