

FOSTER TOWN COUNCIL MEETING

December 30, 2009, 5:00 p.m.

Ben Eddy Building, Foster, RI

The December 30, 2009, Special Town Council Meeting regarding the Gun Shop, Secondhand, and Holiday Licenses for Foster Bear Arms was called to order by John Lewis, Vice President, of the Foster Town Council at the Benjamin Eddy Building, Foster, Rhode Island, at 5:00 p.m.

The following members were present:

John Lewis, Vice President,

Lynne S. Rider,

Roger L. Hawes

Joe Cardillo,

John J. Bevilacqua, Town Solicitor

Colette Matarese, was excused

The Pledge of Allegiance was recited.

PUBLIC COMMENT:

Michael J. Polouski Jr. read a statement letter from his father regarding the Foster Bear Arms which he wished to have entered into the record. (Exhibit A)

Marcia Bowden, Foster resident and Planning Board member, stated her concerns about two things. The first being that the Foster Bear Arms continues to flout the rules and secondly, that the Town Council continues to grant them a license regardless of the fact that the business flouts the rules. If their lawyer, Atty. DeSimone, requests a continuance, the Town Solicitor grants them a continuance. She reads a letter from September 2008 in which all violations are acknowledged and a fine imposed of \$2000.00. She notes that the fine was stayed, and that on October of 2008 they received partial approval. The Planning Board was told that the license would be placed on probation. She notes that each business is allowed only 60 feet of signage and that there are also lighting issues. She further stated that it was discouraging to stand in front of the Town Council to urge them to follow a board's direction.

Constance Polouski, an abutter, states that nothing has changed since she was at the meeting two weeks ago. She notes that she is still waiting—over a year—for this to be done. Until they follow the rules, they should not be granted a license.

Cheryl Wright, another abutter, says she has a problem with people not following the rules.

OLD BUSINESS:

John Lewis, Council Vice President, opens discussion regarding the 2010 Gun Shop, Secondhand, and Holiday licenses for Foster Bear Arms and notes that this was tabled at the last meeting.

John Bevilacqua, Town Solicitor, states that there are two outstanding conditions requiring the Building Official's sign-off: The overhanging roof, and the damage to trees and planting new ones. He says the difficulty is in trying to intervene in what he believes is a civil issue which does not fall under board jurisdiction. He states also that Building One is required to have a Handicap Access ramp regardless of what the "footprint" is of the building. He notes that Foster Bear Arms has applied for that permit. As far as the trees are concerned, he refers to a paid bill submitted from North Eastern Tree Service, Inc.

Lynne S. Rider, Councilmember, motions, and John Lewis seconds, to approve the three licenses, Gun Shop, Secondhand and Holiday to open the issue for discussion. It is noted that the Town Council can only grant the three licenses and not retail sales.

Pamela Chabot of Foster Bear Arms requested clarification of what can and cannot be sold. It comprises guns and secondhand items, and they cannot be open on a holiday.

Lynne S. Rider states that regarding the tree issue and the overhanging roof, that the Chabots were told that, if these issues were not complied with, then they could not get their license. As far as the trees being a civil matter, if it is believed that the Zoning Board overstepped their bounds, then the Zoning ruling must be appealed, otherwise the Town Council must enforce the ruling.

John Bevilacqua, Town Solicitor, says that the Board's conditions must be "reasonable". In regard to licensing, what is the legal authority the council has. Signage within legal limits, lighting is not a problem if it's turned off, so the only issue is the Handicap ramp.

Lynne S. Rider, Councilmember, notes that this has been going on for three years. Signage is back up and that a billboard has been erected for more signage. Lighting is still on late at night—way beyond closing. March 8, 2006, was the first Zoning review. The bait shack was allowed to be 20' by 20' but must be removed completely if it fails. It is now a Feed & Grain store. How did it morph? How many businesses are going on? Since the initial Zoning appearance in 2006, where they applied to move to the present location, they said he would only have one sign. The individuals have never stuck with what they say they are going to do. Contracts can be torn up, this isn't worth the paper it's written on (referring to the contract with the landscaper). And regarding the handicap ramp, there is no requirement for an overhang, the overhang is larger than the ramp and used for storage. She stated that she saw no indication that there would be any compliance.

John Bevilacqua, Town Solicitor, stated that the overhang is allowed for any business. He stated also that the Bait Shack business is still ongoing; the Feed & Grain were added to that.

Lynne S. Rider states again that there has been no compliance.

Roger Hawes, Councilmember, asked how long this has been going on. Mrs. Polouski and her son are here, why can't there be some kind of agreement with the Chabots?

Mrs. Polouski responds that the issues have existed for more than a year, and any attempts have been rebuffed and Mr. Polouski has been threatened with "if you want a war, I'll give you a war", and if they were sincere, it would have happened by now.

Mrs. Chabot states that she had sat down with Mrs. Polouski who only says she wants the trees replaced.

Roger Hawes suggests that they try again and sit down with the new Building and Zoning Inspector. Michael Polouski, Jr. points out that the Chabots have no credibility that they will do the right thing, there is no indication that they are serious.

Joe Cardillo, Councilmember, states that the trees are a civil issue. Zoning requirements should be met, and the license should only be granted on a temporary basis.

Lynne S. Rider states that the town didn't do anything wrong and that the Chabots refused to address these issues. How hard is it not to put up so many signs? To turn off the lights? The neighbors are not the "bad guys". None of these requests put the Chabots out of business or negatively impact the business. It is merely oppositional behavior.

Constance Polouski, abutter, responds to John Bevilacqua's statement about the Zoning Board decision. He stated that putting a restriction on the tree issue is within their purview. It forces them to make an admission which would hold up in court so there would be no need to prove it.

Pamela Chabot says that she spoke with Mrs. Polouski in October. Mr. Sepe of the tree service has been in the hospital which accounts for the delay. She says she presented several options and that they have moved ahead with it. She states that everything had been corrected, The ramp is wheelchair accessible. She says the signs are externally lit 24 hours a day. She feels it's a personal vendetta and that her business looks better than other businesses on Route 6 and that a lot of them run without a license.

John Bevilacqua clarified that it was the roof at issue and that they have a permit.

Mrs. Chabot states that nothing was done without permission, there was always verbal permission and there was no intent to be difficult.

John Bevilacqua states that all things were complied with. Michael Polouski, Jr. states that there is a fundamental lack of credibility that they will do the right thing. If Mr. Sepe was ill, they could have gone to another nursery.

Cheryl Wright, abutter, notes that the commercial site review does not show four new trailers parked in the lot. John Lewis replies that Building & Zoning did look into that, and since the trailers are temporary, there is no issue with them. She responds that no one watches them.

Lynne S. Rider, Councilmember, points out that this is not a personal attack. Others wonder why they are allowed to get away with it. Two wrongs don't make a right. Many chances have been given. Pamela Chabot asks whether it is about the trees or the overhang.

A Foster Resident points out that they need three affirmative votes from the Council, less than three will not pass.

John Lewis, Council Vice President, says they can grant or can deny, and the Mrs. Chabot can appeal, or they can withdraw and table. If tabled, it would mean that the license expires but they do not have to go to court. They can take a vote, or withdraw and reconsider a vote on January 14, 2010.

Mr. Lewis calls for a vote on the motion. Joe Cardillo, aye; Roger Hawes, no; Lynne S. Rider, no.

The motion fails. The license will expire on December 31, 2009.

John Bevilacqua states that permits were filed. The building inspector should meet with both parties and the landscaper. Mrs. Chabot protests and is told that the license can be reconsidered at the January 14, 2010 meeting.

Roger Hawes motions, Joe Cardillo seconds, to reconsider the licenses for Foster Bear Arms at the next meeting on January 14, 2010.

John Lewis, aye; Joe Cardillo, aye; Lynne S. Rider, aye; and Roger Hawes, aye.

**CONCERNED
CITIZENS**

A Foster resident informs the council that a State Department opportunity is available because of the Charter Review process. Chief Hainsworth of the Gloucester police is retiring. It is an opportunity to combine police chief positions for both towns into one. It requires a Charter change which is in process right now. There is a meeting in Gloucester next Thursday.

**FUTURE AGENDA
ITEMS:**

- Refer the combination of Police Chief Positions for Foster / Gloucester to Charter Committee for study.
- Foster Bear Arms License Renewal

ADJOURNMENT

Roger Hawes motions, Joe Cardillo seconds, and it is so voted to adjourn the meeting at 6:50 p.m.

A digital sound file is made a part of the record for a complete account of the council meeting.

Submitted By

Carol Lyons
Deputy Town Clerk

Exhibit A attached