

MINUTES OF TOWN OF BERKLEY SELECTMEN'S MEETING OF 10/14/2020

SELECTMEN IN ATTENDANCE: George F. Miller, Chairman Dean R. Larabee, Clerk Wendy F. Cochrane, Member

TOPIC		ACTION
	Meeting Convened at 6:00pm in the Moitoza – Pettey Hearing Room	
Call to Order	Ms. Wendy Cochrane motioned to open the meeting of the public hearing notice pursuing of Article 21, "Zoning", Section 7C, "Special Permits", of the General Bylaws of the Town of Berkley, the Board of Selectmen will hold a public hearing on October 14, 2020, at 6p.m. in the Hearing Room at the Town Office Building, One North Main Street, Berkley, Massachusetts, regarding the application of Ledir Paulo Rodrigues for a special permit to operate a Petting Zoo and Horseback Riding at property known as and numbered 11 Babbitt Way, Berkley, Massachusetts, further identified in the Assessor's records at Map 3, Lot 11. Interested parties are welcome to attend and comment. A copy of the aforesaid application is on file with the Town Clerk and is available for public inspection during the Town Office's regular business hours. Board of Selectmen George F. Miller, Chairman, Dean R. Larabee, Clerk, Wendy F. Cochrane, Member. Mr. Dean Larabee 2nd voted. Mr. and Mrs. Ledir Paulo Rodrigues explained that they are trying to open horseback riding and a petting zoo to the public. They had filed for the special permit on September, 10, 2020. The permit entailed horseback riding, petting and animal feed, petting zoo. Additional documents given with the application were an insurance policy, tax affidavit, site plan, current deed, application fee, expense escrow, professional expense escrow. They did not submit a worker's compensation affidavit, but was not needed because it will be a family run business. Mr. Miller noted that they had been conducting past business which has now stopped. Mrs. Rodrigues stated that they expect 80-100 people scattered through out the day. Hours of operations would be 10 a.m.- 7 p.m. on Saturdays and 2 p.m.-7 p.m. on Sundays with no plan to open during the week. Mr. Miller noted that the property is residential and not commercial. Mrs. Rodrigues stated that they have 1 permanent bathroom for public use and port-a-potties. She also noted that the permanent bathroom has its own septic system. Mr. Rodrigues mentioned that they currently have 1 pony, 4 horses, pigs, chickens, ducks, 4 calves, sheep, and goats. He then stated that he had not spoke to a professional regarding parking or traffic. He did state that there was an open area near the barn and another section near the fence for parking. He stated that there would be no on-street parking. Mr. Larabee noted that they had many services on their Facebook page that they did not mention. Mrs. Rodrigues stated that she thought it had been removed but they are not having waterslides, canoes, or food. She did mention that there is a pool table for public use but will remove it because it was not included in the application. Ms. Cochrane explained that anything not listed in the special permit will be shut down. Mr. Frank Vaz, 9 Babbitt Way, asked exactly what will be going on. Mr. Miller recited the permit and their guidelines. Mr. Vaz questioned holidays. Mr. Miller stated it had not been discussed yet. Mr. Vaz stated that then noise is unbearable and that they have had over 100 people and had other activities going on. Mrs. Rodrigues stated that they had a birthday party, not open to the public, and there were 150 people there on September 7th. She also stated that she had reached out to the town before she did. Mr. Vaz stated that every Saturday and Sunday there are people there. Mr. Rodrigues stated there were multiple parties and BBQ's they had at their house. Ms. Vivian Carlos, 3 Babbitt Way, stated that she has lived there for 41 years and noted that the street has become a highway and is been very noisy with a PA system and children running and screaming. Mr. Dave Barwick, 6 Babbitt Way, stated he was not concerned with what they were applying for, they are concerned with what they have been experiencing all summer. Mr. Miller stated that the Building Inspector issued a cease and desist on September 10th because they had no permit to operate a business. Mr. Joe Biszko, Town of Berkley Inspector of Buildings, stated he issued the cease and desist because they were operating a business in a residential area. Ms. Judy Plogger, 10 Babbitt Way, stated that she called the police twice, once this weekend and once the weekend before, and they said there was no cease and desist and they could not do anything about it. She stated that they were doing horseback riding and a petting zoo this past weekend. She also stated that people do park on the street and in the cul-de-sac and blocking driveways. Ms. Nancy Thompson, 71 Bay View Ave, questioned the limit of people allowed during the pandemic. Mr. Miller stated that the Board of Health would handle that issue. Ms. Deborah Barwick, 6 Babbitt Way, stated that in the past weekend there had been 50-60 cars coming down their street and a lot of people stop to ask where 11 Babbitt Way is. She also	Cochrane motion to open meeting, Larabee 2 nd voted

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stated that it is not the kind of business they need on Babbitt way and noted that it was a cul-de-sac that does not go out to a main road. She stated that she does not feel safe, does not know who is coming, and does not feel comfortable in her front yard. Mr. Miller mentioned that several years ago, certain business districts has been developed; Myricks, areas on Padelford. Mrs. Rodrigues stated that people call to make a reservation and are not allowed entry without a reservation. Ms. Charlene Lolis, 654 and 730 Berkley St, asked if they had a 61A? Ms. Cochrane stated that they used to be in Chapter Land for agriculture but does not know if it was taken out. Mr. Joe Freitas, 18 Country Lane, stated that 11 Babbitt Way is still in Chapter Land. Adam Costa, Town Council, was present on Zoom. He stated that if they were to grant the special permit, they may be required to take their land out of the 61A designation and pay rollback taxes. Discussion continued. Ms. Plogger stated that the Mr. and Mrs. Rodrigues were having parties every Saturday, Sunday, and Monday between Memorial Day and Labor Day. Mr. Vaz asked the Board of Selectmen to take the neighbors into consideration. Ms. Cochrane asked if the residents of 11 Babbitt Way had gone and talked to their neighbors. They stated that they did not, mainly because of COVID-19 but are open to have a meeting with all of their neighbors. Discussion continued. Ms. Jeanene Jones, 6R Old Berkley St, stated that on the weekends it was very loud, there was a PA system, and that music was playing until 10 p.m. She stated that the traffic and noise alarming and disruptive. Mr. and Mrs. Rodrigues apologized for the noise over the summer and have learned a lot from the meeting. Mr. Miller explained that there are certain limitations and criteria the Board needs to follow and has a lot of things to take into consideration. The following factors are taken into consideration: social economic or community needs served by the proposal, traffic flow and safety including parking and loading, adequacy of utilities and other public services, neighborhood character and social structures, impacts on natural environments, and potential fiscal impact including town services, tax base, and employment. He explained that they cannot do anything based on personal reasons. Regarding the first factor, social economic or community needs served by the proposal, Mr. Miller stated that he thinks it is admirable, but does not know if the town has a great need for a petting zoo or horseback riding, but would give some economic boost. The next factor, impacts on natural environment, Mr. Miller stated he does not see any impact on the natural environment. Ms. Cochrane asked if there were any other conservation violations. Mr. and Mrs. Rodrigues stated that they are working with the Conservation Committee in regards to a dock. Mr. Miller noted that it was not in their application and were not applying for that at the moment. The next addressed factor was potential fiscal impact included town services, tax base, and employment. Mr. Miller stated that it is a family run business and does not affect the town on employment. He did mention that he has a little concern about absence over time requiring them to have police, EMS, and fire going there, but he does not see it being overly burdensome to the town. The next two factors, Mr. Miller said, go hand in hand. Regarding neighborhood character, Mr. Miller stated that it is a relatively, narrow, residential road. He stated he was concerned about the cul-de-sac dead end. The next factor addressed is traffic flow and safety. Mr. Miller pointed out that there was a lot of neighbor input regarding traffic and noise. He noted that 80-100 cars a day is a significant addition of traffic to a dead-end street and would be hard to control. Mrs. Rodrigues stated that it would not be every Saturday and Sunday and they would be unable to operate in the Winter. Ms. Cochrane stated that on ~~October~~ ^{September} 7th, she counted 31 cars drive up and down the street in the amount of time she was there. She also noted that there was someone at the gate taking admissions and a website will attract more people that you cannot control. Mr. Miller recapped certain points made. He stated the biggest issue is character of neighborhood and traffic. Discussion continued. Mr. Miller noted that typically, they do not grant permits in residential areas and that most people move to residential areas to get away from businesses and loud noises. Mr. Costa, Town Council, stated that if they denied the special permit tonight, the residents would have to wait two years before applying again but could request to withdraw with a vote from the Board which will allow them to reapply again with no time freeze. Ms. Cochrane noted that the cease and desist is still in place. Mr. and Mrs. Rodrigues requested to withdraw. Mr. Costa, Town Council, noted that any escrow moneys could be refunded deducting what has been spent. The Board of Selectmen voted to accept the withdrawal of the special permit application. Mr. Miller thanked Mr. and Mrs. Rodrigues and wished them luck.

Larabee motion to accept withdrawal, Cochrane 2nd voted.

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New Business	Board to issue Citation to Marty Windham on his Eagle Scout Badge. Martin Windham, 3 Forrest St, built a ceremonial fire pit at the American Legion dedicated to armed branches. Mr. Miller read the official citation into the record. Mr. Miller appreciated and thanked him for what he had done. The Eagle Scouts asked the Board of the Selectmen if they could sell Christmas Trees on the Common November 28 th , 29 th , December 5 th , 6 th , 12 th , and 13 th . Mr. Miller stated that the Board of Selectmen will vote on it next Wednesday. Board of Selectmen thanked the Eagle Scouts for coming in.	
Minutes	September 2, 2020 Meeting Minutes September 30, 2020 Meeting Minutes	Cochrane motion to table, Larabee 2 nd voted Cochrane motion to table, Larabee 2 nd voted
Appointments	Appointment of Wendy Cochrane to Council on Aging. Ms. Margret Morroff, Chairperson of Council on Aging, stated that she believes it's a great idea and after tonight will have 5 members. Ms. Cochrane stated that she did speak with the ethics board regarding voting as she would excuse herself as a selectman when voting on Council on Aging issues. The ethics ruling is on file. Her appointment would expire on June 30, 2021. Appointment of Arlene Medeiros to Council on Aging. Her appointment would expire on June 30, 2021. Mr. Miller thanked the appointees for volunteering.	Larabee motioned to appoint, Miller 2 nd voted Larabee motioned to appoint, Miller 2 nd voted
Personnel Board	Board to interview and hire Wren Quinn, 33 Thomas Road, as camera operator for Cable Committee. Board to interview and hire William Hoy, 120 Bay View Ave, as camera operator for Cable Committee. Board to interview and hire Jackson Andrews as camera operator for Cable Committee.	Cochrane motion to hire, Larabee 2 nd voted Cochrane motion to hire, Larabee 2 nd voted Larabee motion to hire, Cochrane 2 nd voted
New Business	Board to Discuss and Approve FAC recommendations. As a committee, the FAC made suggestions to the Board of Selectmen. Mr. Larabee stated that the FAC did an amazing job at analyzing what they needed to look at and appreciates their thoroughness. Mr. Larabee stated he does not have any issues on the list. He does request the FAC review and ensure that there are no needs that are overlooked because needs may have changed in the last six months. Essentially, to make sure there are no needs post COVID-19. Mr. Freitas stated that he doesn't know if starting from scratch is the best answer, but there may be a need to have a more in-depth conversation with each department who has submitted that. Mr. Miller stated that there is room for tweaking to give other departments a chance to advocate for their needs but not start from scratch. Ms. Cochrane motioned to deny the recommendation from the FAC Committee and have them reconsider it and represent it to the Board of Selectmen. Mr. Larabee 2 nd voted. Ms. Martin-Sterling, Chairmen of the FAC, stated she will open it up to other departments to give emergency requests by Monday morning.	Cochrane motion to deny the recommendation from the FAC Committee and have them reconsider it and represent it to the Board of Selectmen, Larabee 2 nd voted
Meeting Mail	Letter from residents of Susan Drive. The residents are requesting to add a dead-end or no outlet sign. Mr. Miller read the letter into the record. Ms. Martin-Sterling stated that she forwarded the letter to the highway surveyor.	Cochrane motion to file, Larabee 2 nd voted.

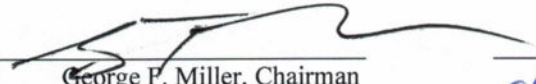
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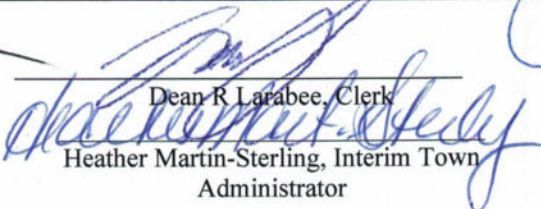
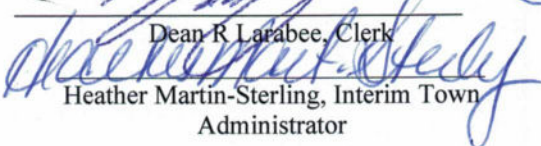
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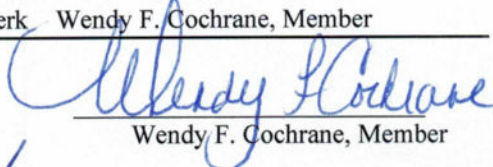
Old Business	Board to discuss upcoming Halloween Holiday. Mr. Larabee noted that there are no additional guidelines from the state or governor's office. Ms. Cochrane motion to let Halloween be the way it is.	Cochrane motion, Larabee 2 nd voted
New Business	Board to review FY21 Budget for Special Town Meeting. Mr. Freitas stated that he has gone through the budget and has had conversations with the Town Administrator. He stated that he will be scheduling a meeting on Tuesday to look at the budget. He also stated that there have not been many changes from the original submission.	Cochrane motion to table discussion, Larabee 2 nd voted
	Board to accept and sign Town Clerk Grant. Ms. Martin-Sterling stated that the Town Clerk applied for a grant and was awarded \$5,000 and must be used for planning and operating election in Berkley in 2020. Mr. Miller asked for what exactly the money will be used for. Mr. Miller stated that he will not sign it until he can review what it is being used for or if it does not benefit the town. Mr. Larabee commended the town clerk on obtaining the grant.	Cochrane motion to accept the grant, contingent on review of what it is being used for, Larabee 2 nd voted
	Board to open and close warrant. Ms. Martin-Sterling stated that she received the corner lots from the Planning Board and a Veterans exemption from the Assessors Board.	Larabee motion to open and close warrant on October 14, 2020, Cochrane 2 nd voted
	Board addressing FY19 Audit. Cochrane motion to file the audit of FY19.	Cochrane motion to file, Larabee 2 nd voted
Town Administrator Report	Ms. Martin-Sterling stated that the FAC is missing a Citizen at Large. Also, Chairmen of the Capital Improvement Board informed Ms. Martin-Sterling that they are down to 2 members, making it not eligible to qualify as a committee and there would be no report at the Special Town Meeting. Mr. Larabee stated if anyone would like to volunteer and is interested, they can contact the Town Administrator. In regards to the Padelford Street Project, Ms. Martin-Sterling stated that there is an abutter on Jerome Street and submitted an appeal on the conservation. She then mentioned that Mr. Dave Welka, who represents the Padelford St Project, would like to use the Town Attorney Mark Bobrowski if an appeal come forward.	Cochrane motion to allow David Welka, Kaival Berkley, LLC, to use Mark Bobrowski as an attorney if an appeal come forth. Larabee 2 nd voted
Public Input	Mr. Freitas stated Governor Baker proposed to removed \$1.35 billion from the Rainy-Day Fund to supplement his budget submission of \$44.5 billion. The receipts for taxation are 1% lower than the same time last year. Mr. Freitas stated that he is unsure how it effects the town. The Board of Selectmen thanked Mr. Freitas.	Informational, no action needed
Soil Board	Board to review the Findings and Decision for Kaival Berkely, LLC to determine if a Soil Permit is required. Mr. Miller asked Ms. Martin-Sterling to have Town Council take a look at it and determine if there is anything that they need to address in it.	Larabee motion to table, Cochrane 2 nd voted
Adjournment	Ms. Martin-Sterling stated the next meeting will be October 21, 2020 at 6:00p.m. in the Council on Aging room.	Cochrane motion to adjourn, Larabee 2 nd voted

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George F. Miller, Chairman


Dean R. Larabee, Clerk

Heather Martin-Sterling, Interim Town
Administrator


Wendy F. Cochrane, Member