

ST. GEORGE SELECT BOARD & ASSESSORS
St. George Town Office
MEETING MINUTES
March 14, 2022 – 7 p.m.

The Select Board meeting was called to order at 7:00 p.m. Members present in person were: Richard Bates, Chair; Randy Elwell, Jerry Hall, Wayne Sawyer, and Tammy Willey. Also present in person: Richard Erb, Irene Ames, Jane Conrad, Anne Cox, Michael Jordan, Susy Ellis, David and Bonnie Percival, Bruce and Gayle Elfast, Nancy Blake, Bob and Cynthia Cremonni, Joss Coggeshall, Alison Briggs, Don Jacobson, Steve Jarrett, Richard and Stephanie Smith, Suzy Kane, Van Thompson, Greg Soutiea, Emily and Chris Chadwick. Also present by Zoom included: Adele Welch, Diane and Ken Oelberger, Suzanne Hall, Richard Cohen, Scott Vaitones, Elizabeth May, Chris Williamson, Meg Rasmussen, Dan and Kristin Falla, Alison Formagie, Chris Moses, Christopher Mason, and Loreen Meyer.

PUBLIC HEARING: Town Charter Amendments.

Chair Bates opened the Public Hearing at 7:00 p.m. "The changes to the Town Charter are not significant and are not things that require a Charter Commission. They are Administrative on procedural matters and corrections."

Oelberger: I was looking at the areas of change, and Section 201 applies to the Select Board. Does Section 202.1 apply to all Boards and Committees, including the Select Board?

Jordan: There is one part that deals with the Select Board, and that has a complete set of rules. Then there is another part that deals with other Boards and Committees and that has a set of rules. That is why there are two different parts.

Oelberger: In the other Boards and Committees, there is an area for Conflict of Interest, but I did not see that same Conflict of Interest clause for the Select Board. "If Section 202 applies to the Select Board, then Conflict of Interest will also apply to the Select Board?"

Jordan: There is a separate provision in the Select Board section of the Charter that applies to Conflict of Interest. It did not need to be changed. The part of the Charter that deals with other Boards and Committees, did need to be changed because a portion of it conflicted with State law.

There were no other questions or comments. At 7:03 p.m., Chair Bates declared the Public Hearing for the Town Charter closed.

PUBLIC HEARING: Board of Appeals (BOA) Ordinance.

Chair Bates opened the Public Hearing at 7:03 p.m. He explained that Planning Board Member Michael Jordan, Board of Appeals member Jane Conrad and Planning Board Chair Anne Cox worked on the Board of Appeals Land Use Ordinance. Chair Bates said the basic idea was to take the issues associated with the Appeals Board from the different Land Use Ordinances and bring them into one document. He said the group added a few additional areas to the Ordinance, that by law, the Appeals Board was required to cover.

Briggs: Could you give some examples of the part that talks about not having jurisdiction if a town official or the Code Enforcement Officer decided not to enforce something, and why that changed?

Jordan: That was one of the issues we had discussion about because we were not entirely of one mind about it, so we reached a compromise proposal. Here is the background. James Katsiaficas, one of the town's lawyers and a Municipal and Land Use lawyer in Portland recommended to the Board of Appeals that they eliminate altogether the jurisdiction of the Appeals Board hearing appeals concerning enforcement matters as opposed to permit matters. Our ordinances currently allow appeals for enforcement matters as well as permit matters.

Briggs: Are you talking about Section 13(b) and (c)?

Jordan: Yes. So, there is a view at large that Boards of Appeals should not hear appeals for enforcement matters, at all. Even if it is from the person that the enforcement is directed to or whether it is an appeal by a neighbor who would like to see enforcement action taken but the Code Officer decided not to. Those are currently allowed so this is a change in our existing ordinance.

Briggs: Section 13(b) and (c) would be a change?

Jordan: Yes, (b) and (c) would be a change.

Briggs: As an example, I decide to do an addition to my property. Maybe I always did the proper permit and I do something else, and my next-door neighbor says, you are right up against my property line, it is not the proper setback, and the Code Enforcement Officer denies it. The question becomes, "Is that going to be enforced? How is that going to be enforced? Does this mean that before, my neighbors could have come to you and said, 'this needs to be enforced or I could say it doesn't need to be enforced?' Now, what would I have to do? File a lawsuit?"

Chair Bates to Briggs: It seems that it is predicated on the fact that the Code Enforcement Officer says, "Well. Hey, whatever," and the current Enforcement Officer in St. George doesn't say that. "I think that is an important distinction."

Briggs: Suppose the CEO says, "Hey Alison. You definitely shouldn't have done it, you had no right to do it, and it is against the setback rules." So, what is he going to do?

Chair Bates: Request that the building is taken down.

Briggs: Suppose I don't. Then somebody would have to enforce it, right?

Jordan: Correct.

Chair Bates: Then that would become an issue for the town to deal with.

Briggs: Would that be an enforcement action?

Jordan: That would be an enforcement action that under the current rules it could appeal to the Board of Appeals. Under the proposed ordinance, it would not be. Here is why. The Board of Appeals operates in that area like a court. It acts like a lower body. There is almost no example I can think of in law enforcement where a person who believes to be injured by a non-action by an enforcement officer, is allowed to go to court and require that officer to take action. You can't go to court and get the district to prosecute a problem.

Briggs: You are saying my neighbor would have to go to court and sue me?

Jordan: Yes. (Conrad: Correct.)

Jordan: If you could go to the Board of Appeals and they decided the Code Officer made a mistake and ordered the Code Officer to issue an order to tear the building, under the way things work now (and pretty much everywhere), the Code Officer has to make that ruling and the property owner would be free to ignore it. The other way to enforce it at the local level would be to get the Select Board to authorize a lawsuit to make them do it.

Briggs: Right now, would the Select Board be able to file a lawsuit to make people do what the Code Enforcement said?

Jordan: They could do that, but the Board of Appeals can't force the Select Board to do that.

Soutiea: From direct experience in the past with the Code Enforcement saying one thing and (planning on) doing another thing, is it just meant to relieve the town of that liability and put that on the individual? Or how would that apply? In my situation, we went to the Board of Appeals to try to rectify the situation. Would that not have been the avenue?

Jordan: No, that is different. What you went to the Board of Appeals for was a variance. The Planning Board could not help you with that. This is different. If the Code Enforcement Officer had made an enforcement order against you, you as the party would still under the proposed rule appeal that to the Board of Appeals.

Conrad: I think that is an important distinction to make, but if the Code Enforcement Officer issues a violation or makes an active decision, the person who is aggrieved by that can still go to the Board of Appeals under this proposed rule.

Thompson: A small editorial piece on page 5 when you were talking about Section 14. In the first paragraph, the last line just to avoid confusion, please don't use the word, "that." Specify what you mean: "under that standard." That becomes clear once you've read the whole thing but because you have added a modification in the previous line, you are not sure what you are referring to.

There being no further questions or comments at 7:15 p.m., Chair Bates declared the Public Hearing for the Board of Appeals' Ordinance, closed.

PUBLIC COMMENTS: None.

REGULAR SESSION:

- Adjustments to Agenda:

- Review of the Town Charter Amendments was moved from New Business and taken up under Regular Session.
- Review of the Board of Appeals' Ordinance was moved from New Business and taken up under Regular Session.
- Review of Special Amusement Ordinance Workshop was moved from New Business and taken up under Regular Session.
- Finalize FY'23 Town Budget for Town Meeting was moved from Old Business and taken up under Regular Session.

The following items were added to the agenda:

- Select Board Discussion: Will Masks be Voluntary Starting Next Meeting?

- Appointment Forms to be Signed.

- Town Charter Amendments:

On behalf of the Select Board, Chair Bates read: "The proposed changes to the Charter affect four sections and focused on the Administrative or Procedural Matters and Corrections. The changes do not rise to the level of a revision because they do not entail examination of the entire Charter or contemplate the significant change. We, therefore, find that the proposed changes are Charter Amendments subject to Town Meeting vote and not a revision that would require a Charter Commission."

Chair Bates addressed the Select Board. "I believe we have had a consensus of the Charter Amendments and to put them on the ballot in May."

On a motion by Selectperson Sawyer, seconded by Elwell, by roll call, it was voted 5-0 to approve the proposed changes to the Town Charter, and authorize a referendum for the proposed changes and voted on in May 2022.

- The Appeals Board Ordinance: Chair Bates stated there was only one comment made during the public hearing, and he felt the Board of Appeals Ordinance could also be put on the May 2022 ballot.

A motion was made by Selectperson Elwell, seconded by Sawyer, to authorize a referendum for the Appeals Board Ordinance to be voted on in May 2022.

Chair Bates thanked Jordan, Conrad, and Cox for all the work they did on the Town Charter Amendment changes and BOA Ordinance.

- Review Special Amusement Ordinance: Chair Bates thought the workshop held on Thursday, March 10, 2022, was useful, the input was good, and people had a lot of interesting ideas. He stated the Select Board received a communication from Kristin Falla and letters from Bonnie Percival. Chair Bates read the emails into the record.

Friday, March 4, 2022

To: Richard Bates, Rick Erb; and cc: Dan Falla

Good morning, Rick & Richard:

I just wanted to take a quick moment to say thank you for the workshop last night. I know these are some big issues our town is trying to tackle, and Dan and I appreciate your efforts. I didn't think the workshop would include public participation, but I appreciate the opportunity to ask a couple of questions and contribute a couple of points.

We look forward to being part of this process as the special amusement ordinance moves forward. If you have any questions, please let us know.
Thank you. - Kristin Falla, 19 Watts Ave.

Friday, March 4, 2022

To: Richard Bates, Kristin Falla

Subject: Rethink of Happy Clam

Dear Richard, Members of the Board of Selectmen, and Rick Erb,

Thank you for the working meeting last evening with community input on the concerns with Happy Clam.

After the meeting, I began thinking that there may be a more direct way to address the community concerns without developing an ordinance.

I personally found the back and forth conversation of decibel levels, and how to monitor those levels, to be confusing and honestly question the town's ability to enforce such a standard.

It is not certain that an ordinance would solve this particular problem with the Happy Clam.

Has the possibility of mediation been considered in this situation?

Mediation may be more acceptable to both Mr. Howland and to community members. It would give both "sides" the opportunity to express their heartfelt grievances and concerns. With the aid of a trained mediator, an acceptable path forward may be found.

IF this process is unsuccessful, the option of an ordinance may be necessary.

My sense is that this issue is about more than just decibel levels. Mediation may just be the path to successfully address all the concerns.

Thank you. - Bonnie Percival

Sunday, March 13, 2022

To: Richard Bates, Anne Cox, Kristin Saunders-Falla, Rick Erb

Subject: Happy Clam, Amusement Ordinance, etc.

Dear Richard & Anne & and Members of your Respective Boards:

In our mind there continues to be unanswered questions surrounding the entire situation with the Happy Clam and how unhappy the residents of the village of Tenants Harbor are with what is happening, or not happening.

Late last summer/early fall complaints were issued by TH village residents at a Planning Board meeting. There was good discussion and it seemed that there were recommendations made to Mr. Howland at that time to take specific steps to ameliorate the annoying sound and the dangerous parking issue each Sunday.

Since that time no further information has been forthcoming on whether or not Mr. Howland has taken steps to fulfill these recommendations.

Recently the Select Board had a special Workshop mtg to discuss an ordinance to deal with annoying sounds...a proposed Amusement Ordinance. Though again we had a very interesting discussion about the provisions in the draft, some of us had significant

questions whether such an ordinance was sufficient to actually deal with problems generated by the Happy Clam. One issue in particular, how to monitor and enforce decibel levels(?!?).

Last Tuesday. the Planning Board entertained a proposal by the Happy Clam for further expansion. This felt like an affront to us, the concerned residents. There was NO acknowledgment of our prior complaints regarding the problems the Happy Clam had landed on our community. And there was no statement as to whether any of the requests made to deal with those problems last Fall had in any way been addressed by Mr. Howland, i.e., noise buffers, parking issues, etc.

Now we see that the Amusement Ordinance is on the Select Board agenda for Monday the 14th.(??) We actually question the feasibility of such an ordinance to address this Happy Clam issue.

There are many issues that simply do not fit into this single ordinance.

What may be the unintended consequences of such an ordinance?

AND how will the proposed monitoring of decibels be achieved?

Perhaps the idea of mediation could be explored to address the discontent between residents and the Happy Clam(??).

These are our thoughts only.

In closing, we want to say that we have great respect for your leadership and for the function of these all volunteer boards.

Life in a small town is anything but dull.

Thank you for your work, for your time & for your dedication.

All the best. - Bonnie & Dave Percival

Chair Bates felt Dave and Bonnie Percival and Kristin Falla made good points and said in talking to some members of the community, he believed there had been a lot of thought given to this issue. Chair Bates said Town Manager Erb had been talking with Greg Howland, owner of The Happy Clam, about the issues.

Erb: As you indicated, there has been discussion about a Special Amusement Ordinance at about three meetings. If the Select Board wishes to move ahead with the proposed ordinance, you would need to have a public hearing around March 28th in order to be on time for the May town meeting.

Erb explained: Somewhat along the lines of what Bonnie Percival talked about but independent of anything I was discussing that there is another alternative here which might include continuing to work on the ordinance and preparing it to the point where it is ready to go to town meeting. But in the meantime, the town should purchase a necessary sound measuring device so we can ascertain what the desirable levels are.

What I have done with the proposed ordinance is take information from other towns that have developed and passed similar ordinances, including decibel levels. I have worked with what are the typical descriptions of what various decibel levels sound like. But the fact is, every situation is unique. We thought about whether there was a way to set up a demonstration but most of us

concluded that it was almost impossible to simulate what it sounds like when a business is open and operating with live entertainment. You have the noise of the crowds. You have other factors involved. I don't think that is going to tell us what we need.

If we were able to set up a decibel meter, work with whichever business we were monitoring, make adjustments to the sound at the establishment, and make adjustments to the ordinance, we would have a better idea.

I am really concerned about moving ahead with an ordinance. We can make a best estimate of a decibel level but until the event happens, we don't really know. We don't know if it would appease people who were concerned about the noise level. We don't know whether the decibel level would be reasonable for a business to operate or not be able to operate if the level was too low. If it is too high, then it hasn't accomplished anything for those who came to us. I discussed this with Chair Bates and the Board members, but I would be interested in input from others on how to proceed at this point.

Chair Bates reminded people, "We do not have zoning in this town. Whatever (decibel level) number is settled at in the Special Amusement Ordinance, has to satisfy every business that sells liquor in St. George. We can't have a different level rating for Clark Island, Port Clyde, and Tenants Harbor. It has to be the same across the town. It is just not fair to have a number that keeps some part of the community happy while at the same time damaging businesses that are operating with happy neighbors. We need to find the number that is appropriate that satisfies the whole town."

Chair Bates said if people could agree on a decibel level, it would avoid the problem of having a public vote.

Chair Bates: I think Rick could remind everyone that Mr. Howland said he is very keen to cooperate in this.

Erb: Howland contacted us with that in mind. The incentive would be if there is an ordinance ready to go. There would be at least two opportunities to pass an ordinance after the annual town meeting. One would be in June when the school budget comes up, and the other in November at the primary election. But even without that, we can call a special town meeting, at any time and that would only take a couple of weeks to call. This does not have to go to a referendum vote.

Erb: It would also allow us to know what we are talking about regarding decibel levels because right now it is a guess.

Selectperson Sawyer: I like the idea of keeping and having an ordinance in place as an incentive. Keep it ready to roll whenever it needs to roll.

Selectperson Sawyer: I have a question for Kristin and Dan Falla. Are some bands worse than others?

K. Falla: Yes, and he is expanding bands. That's the other concern. There is a lot of expansion happening over there, so it is not going to be limited to just Sundays.

Selectperson Sawyer: So, we would need to know what a quieter band sounded like and also what a really obnoxious band sounded like.

K. Falla: I think any band. We can hear karaoke loud and clear in our dooryard before the trees were gone.

Selectperson Sawyer: But some are still worse than others?

K. Falla: Most Sundays are all the same. There are levels of bands in other establishments in our community. We went to the East Wind last summer. They had Playin' Possum and they were not very loud. That was a simple acoustic sound. That is not what is happening at The Happy Clam. There are other restaurants in town that have music that is not spilling over into their neighbors.

Selectperson Hall: I like the idea of trying to work something out. I would also say that in the conversations we had on the previous occasions, the concern has been raised that there are several businesses who have live music today that nobody has complained about. I think we need to be sure that what we do, does not unfavorably impact those businesses. Let's see what the numbers should be because we do not want to unfavorably impact people where there isn't a problem.

Chair Bates to the Chadwicks: At the workshop, some of your neighbors said, "They have music there. It's great. It doesn't bother us." We need to make sure we keep that situation, so it does not affect your business.

Selectperson Willey to Erb: You said you had talked to Howland, and he said he is willing to work with this. Has Howland, during one of his events, gone over to the neighbor's and listened? Has he gone to other venues to see what their noise levels are?

Erb: You would have to ask him. I do not know.

Selectperson Willey: I would hate to see this turn into a huge fight. Once you have an ordinance, it will lead to other things.

C. Chadwick: We just want to make sure there's reach. We just want to make sure there's no overreach.

Chair Bates: The way town ordinances are passed is with a town meeting and a vote. We cannot do it in the dead of night.

Erb: When you look at how the ordinance is written, it is in a section that deals with entertainment. It is not a section that deals with general noise. It would be quite a stretch to amend this particular ordinance and make it apply outside of entertainment.

Selectperson Elwell: I agree with what everyone is saying but I think it is premature. Howland's not open. Chadwick hasn't gotten up and going yet. I agree we should go into it with numbers but if what we come up with doesn't satisfy the noise level for those on Watts Avenue, around here in the village, or Port Clyde then we have to go back and change it. I think we should take

some numbers around the neighborhood, down on Factory Road, and around that venue to get the numbers on the outside. I don't think we should get the numbers just at the property line. This would be fair to everybody, whether it is the venue owner or the neighborhood.

Selectperson Elwell: And how it is going to be enforced? If there is a complaint, is Erb or someone going to go out at 10 p.m. to monitor it? If we are going to have the ordinance, it should be dealt with at the time the complaint comes in.

Soutiea: My wife and I bought the Craignair Inn about three years ago and have some music a few times a year usually on a smaller scale. I think these numbers in the draft ordinance are out of scale as to what would be reasonable. A small leaf blower is 67 decibels. The sound of normal rainfall is 50 decibels. A basic conversation like we are having is 60 decibels, and the ordinance is limiting it to 55 decibels after 7 p.m. That is effectively two people in a room.

Chair Bates: We are talking about the property line and not close-up. That is a key point. But your point is, we need to get solid data at the different establishments to see what a reasonable number for daytime is and at night.

Soutiea: There is a more direct way (for the town) to address this issue rather than penalize all businesses that have a liquor license. I think that is a slippery slope, is unfair, and is going to hurt businesses in the community. It is not fair to me, other business owners in town, or the people who would like to see those events. I think the decibel level at 7 p.m. is a little unreasonable. Most restaurants serve dinner until 8 or 9 p.m.

K. Falla: I want to clarify this. I don't think any of the neighbors want unintended consequences to other businesses. I called Emily Chadwick today. I am sensitive to business operations. There is one issue that we are all concerned about, and it is unfortunate that one person is spoiling it for everyone else. Other businesses in town do a great job; we are happy to support them. My concern is how long it is going to take to get these businesses licensed. Are we going to have to wait and live through concerts until August?

Chair Bates: We can have a public hearing and then a vote at the town meeting in May. We can get the whole thing quickly accomplished.

K. Falla: But for issuing of the permit, the ordinance says that "municipal officers shall schedule a public hearing within 21 days of the receipt of special amusement permit application." So, it is going to be a long process until this gets implemented.

Chair Bates: It will be before the end of this season, but the practical limits of being fair to both parties, I think we do need to go this route of getting sound levels. We want to be sure that we have the right numbers. I understand your concern.

K. Falla: We are also telling you how loud it was last year. I wished we could have measured it then because it was happening every week, and it will just continue. I appreciate that you have been talking with Mr. Howland but I just don't trust that it is what he says he is going to do, and we had these concerns before, and they weren't listened to. I expect it to be even louder now that the trees are all gone.

Chair Bates: It is in Mr. Howland's interest to cooperate with the town. As to getting the equipment and doing measurements before, that is "water under the bridge." The intent would be to get the equipment, get trained to get measurements that are legally binding and start taking measurements at the very beginning of the season.

K. Falla: I hope so. I am cautiously optimistic, but I am just not trusting it is going to be.

Chair Bates: Trust is an important component.

Blake: Will you be able to take the instrument to various locations on the street?

Erb: Yes.

Blake: I am just up the street from The Happy Clam. If it is really loud at my house, then it's extremely loud over to The Happy Clam. So, any measurements should be taken at various distances to see how far that travels.

Chair Bates: Yes, as far as the ordinance is concerned, the law typically defines sound levels at the property line. You are right, the further away, the sound is attenuated and then there is the extra factor of the prevailing winds.

Kane: I can't hear it at my house but as soon as I get 100 yards from my house, I can hear it. Go up Juniper Street by the elementary school and you can practically sing along, and by the time you get to Watts Avenue, it is horrendous. Yes, we would like to trust the operator, but he was supposed to comply with things, and as far as we know, he has not. So, now we are bending over backward to buy or rent equipment.

Chair Bates: If we proceed with a special amusement ordinance, we are going to need to have test equipment. This is not an unnecessary expense. I understand, as other people have said, it was pretty unacceptable last summer. What Mr. Howland is saying is, he wants to work with the town, and it is in his best interest to work with the town. I think we should proceed on that basis until we are proven wrong.

I know there are a lot of other issues with The Happy Clam, some of which were discussed by the Planning Board last Tuesday. I have complete faith that the Planning Board will handle those issues.

Kane: If the town has adopted the ordinance, what are the consequences to Mr. Howland for continuing the venue and disturbing the neighborhood?

Chair Bates: The consequences are spelled out in the ordinance and are a rapidly rising scale of fines such that the business will cease because the fines increase step by step, very steeply.

Kane: But if we do not have an ordinance, what are the consequences?

Chair Bates: I thought you said, if the negotiations fail, then we put to the town an ordinance, and assuming it passes, then the fines kick in.

C. Chadwick: I think she is asking if it doesn't pass.

Chair Bates: Then we are back to square one. I would welcome suggestions, and if this is a representative group of the town, I assume the ordinance will pass.

C. Cremonni: We are all concerned about the noise, but the noise has a limit on it whereas the traffic can cause an accident. Children were out riding their bikes the last night they had their event. We counted 75 cars there. I also feel terrible for the neighbors who have had their property de-valued. Shouldn't that be protected in some way?

Chair Bates: You have many good points and we have discussed these before. The issue of traffic is an issue for the sheriff's office, and the sheriff is well aware of this issue.

R. Smith: My name is Richard Smith. I live on Elementary School Road. I will make this as brief as I can. I have materials I can give you that are the substance of my comments. I wanted to touch on a couple of questions that came up in the course of the comments and discussion with the Board. One is concerning mediation. Mediation is great but it is essentially a conversation with somebody supervising. There is nothing to prevent the neighbors to knock on your door and say if they've got a problem with something. That is essentially an extension of what you would do as a neighbor under a mediation sort of format. You can spend a lot of time, energy, and money "spinning your wheels" and never accomplish anything. That is the problem with just deferring this to mediation.

Secondly, with respect to recent comments on the noise limit and testing. The fundamental problem with testing and trying to come up with a number is it is all subjective. Everybody hears differently. Everybody is located at different distances from noise sources. Everybody has different obstructions to noise and reflections of noise and all kinds of variables that make it very difficult to collect a couple of dozen people concerning whatever number of potential noise sites and come up with a number.

The best approach in terms of a standard is likely to be a deduction of an objective standard as the town manager has attempted to do in looking at other ordinances and seeing examples that have been applied. I don't know if it has been undertaken already but another step might be to reach out to the town manager elsewhere where they have an ordinance. Ask them what has worked. What has not worked? What are the limitations? What was found to be the problems in addressing peoples' concerns when you use particular numeric criteria? That may be helpful to get us to a particular standard.

The other thing is, in my experience, the practice of noise engineering is about a half step away from magic. It is very strange and different. We all think we know what is noisy and not noisy but the engineers who deal with it, speak another language. There are engineering techniques and methods for mitigating sources, and they have lots of things that they can do to help address noise problems.

The last point concerns the source of the authority for this type of amusement ordinance. Again, it is not specifically a noise ordinance; it is an amusement ordinance. You derive your authority under a state statute that is relying upon there being a liquor permit. This authority is solely limited to facilities that have liquor permits. That is an important consideration.

I also have a couple of general comments and suggestions in my prepared remarks with respect to a redline of the draft document. In the context of other ordinances being discussed tonight, a

different set of eyes looks at the document and says, that shouldn't say that; that should say something else to be clearer.

What the Board is going to be asked to do under this ordinance is to determine whether the proposed activities will be detrimental to public health, safety, or welfare or would violate municipal ordinances. The only specific standards as we know are the noise level standards in the ordinance, but there are other limitations; entertainment at premises licensed for liquor sales that are authorized by the statute. In some of the ordinances adopted by other municipalities, they've extended it to address the public health, safety, and welfare considerations by including considerations of vehicle parking requirements and the capacity of the buildings or other structures required, unseen law enforcement personnel. In doing that, which is a tremendous advantage in my estimation, they are then in a position to consider the site, specific characteristics of the entertainment location and in that way to address other considerations that could include sanitation, fire safety, emergency access, traffic safety, pedestrian traffic, conflict resolution matters and things that go beyond noise.

The important consideration when we talk about whether we are going to do this by some form of amusement ordinance, are going to do it by special permit, or by building permit is that it is fine and important to consider these other issues when there is a building permit required or there is a special permit required. We could have various operations that come for an entertainment permit where they don't need a building permit, and they don't need a site plan review approval. In which case, you are stuck with only the limits of your entertainment ordinance, and if you do not have these other provisions that are authorized by statute which is a broader net to cast in regulating the activities that create the most important impacts for their neighbors, then you are stuck.

What you could have done maybe with a building permit review or site plan review, you can't do if after people have those permits, they are going to propose activities that are under the amusement ordinance, and you do not have this ordinance including factors beyond noise control.

Briggs: I don't see it here, but who is going to be called? Is there a 1-800 number or a 24-hour number? Who is going to be called at the right time and then get there when the noise is still at that level? This is something that should be discussed. We are going to have to pay people to do it. We are going to have to get people out of bed.

Chair Bates: From the workshop on Thursday and from the comments being made tonight, I think the ordinance that we have done is a good first step. I hope the Board is going to discuss this as, I think, we do need to add more to the ordinance, and if we do decide to put it out to the voters, we can make sure that we have a better answer on how it is going to be enforced.

Erb to Briggs: In answer to your question, there is a Town manager, there is a Code Enforcement Officer, and there is the possibility of the town hiring someone else. If we had a police department, it would be a police officer, but we don't so that will not happen. This is a start.

Chair Bates' suggestion was to first explore getting a sound meter, doing measurements, and trying to work with the businesses around town to try and find the numbers which are acceptable to everyone.

Selectperson Elwell: By some of the comments made tonight, this ordinance still needs a lot of work, and to say we are going to do it in May, I don't think we should put that date on it. I think it needs more work before we jump into it.

Selectperson Hall: It needs more work. We have received a lot of input we have to factor in. You would hate to have nothing done over the summer, so I think that we need to get something that is an upgraded version of the draft that includes the added research and the decibel numbers, so we've got something that we have ready to go if we need it.

Chair Bates: It is a two-pronged approach, and the hope is that we could reach acceptable decibel level numbers and have an agreement with the businesses and the communities that surround these businesses. If we can achieve that, then we do not need an ordinance. I think most of us would rather not have legislation if we could avoid it. If that fails, we will quickly go to a public hearing and have a vote.

Selectperson Hall said the main issue is coming to some kind of agreement with The Happy Clam. He did not think there was a problem any place else in town. "We clearly have a problem in Tenants Harbor and if we can work with the owner to resolve that problem that would be the best approach."

Selectperson Willey: This would be a blanket approach so all the businesses would have to be at a certain level?

Chair Bates: Because we don't have zoning, it has to be applicable across the town.

Selectperson Sawyer: As Hall said, we have had no complaints on any other businesses.

Selectperson Willey: So, we are basically looking at The Clam. I hope we can work something out with him. I hope he will be agreeable and do something.

A motion was made by Selectperson Hall, seconded by Elwell, for the Select Board and Town Manager to review public input and continue to work on the draft for a Special Amusement Ordinance, to explore purchasing a sound meter and work with the area businesses to find an acceptable decibel level. The roll call vote was 5-0, in favor. Motion carried.

- Finalize FY'23 Budget for Town Meeting: The Select Board and Budget Committee reviewed the final budget recommendations. Areas with questions and concerns:

TRIO. Budget Chair Ellis asked if the town was locked into the software license because the cost kept increasing. Finance Director Ames said it is either using the TRIO system or going back to using pencil and paper. Ames stated it is the most economical system and about the only other software that would do what the town needs it to do.

Town Audit. Ellis asked about the Town Audit amount. Erb stated that Fred Brewer had not given him the final number yet. Erb said he called him on Friday but has not heard anything.

Commercial Snow Blower. The Select Board discussed purchasing a commercial snow blower, but Erb felt the Administration was not ready to buy a larger one at the moment. He said he

understood the concern about the need for bigger model, but they should figure out, for the rare times the town needed something heavier, how the town was going to do this.

Seaside Cemetery Mowing. The Budget Committee felt \$28,000 was high for Seaside Cemetery mowing and asked if there were other options. Selectperson Hall noted that the cemetery did not always get mowed throughout last season. Erb said the issue was finding someone dependable that could do the job and estimating how many times it would have to be mowed. He said because of the rain last summer, it would have needed mowing 28 times. Erb thought the range more likely between 24 and 28 times a year, depending on the weather. Hall felt that amount could be reduced to \$26,000.00.

Composting. Erb talked with Caron at the Transfer Station about composting costs. The Boards recommended an increase to \$2,000. Selectperson Willey asked if composting paid for itself. Selectperson Hall stated that \$1,100 worth of compost was sold so far this year. Erb said the Transfer Station sold everything that was generated and that he and Caron discussed the possibility of raising the price of compost. Chair Bates also noted that composting helped avoid extra tonnage that had to be trucked to Norridgewock. The town sold \$6,700 worth of compost in the last fiscal year, according to Selectperson Hall.

Tipping Fees. Erb spoke to Waste Management about tipping fees who said towns would be hard hit next year on tipping fees. Chair Bates said if they understood why the numbers were less this year, it would help them in endorsing it. Selectperson Hall said last year there was a big increase in tipping fees but there was not the same kind of increase in the transport costs and wondered what caused that as transport costs seemed to be tracking along. Hall thought there was a little room to reduce the amount but was okay with \$166,000 for next year.

Transfer Station Employees. Selectperson Willey asked what the percent was in raises for Transfer Station employees. Erb said people that left the department were being paid more than people that stayed. The turnover reduced what the town was spending. Chair Bates said the result was a 3.8% increase.

The Select Board voted on the Town Manager's Recommendations for the FY'2023 Budget:

Town Office. \$660,969.00 - A motion was made by Selectperson Hall, seconded by Elwell, to accept the Town Manager's recommendation of \$660,969.00 for the fiscal year 2022-2023. The roll call vote was 4-1 (Willey opposed). Motion carried.

Select Board/Assessors. \$75,645.00 - A motion was made by Selectperson Hall, seconded by Willey, to accept the Town Manager's recommendation of \$75,645.00 for the fiscal year 2022-2023. The roll call vote was 5-0. Motion carried.

Planning Department. \$128,063.80 - A motion was made by Selectperson Hall, seconded by Elwell, to accept the Town Manager's recommendation of \$128,063.80 for the fiscal year 2022-2023. The roll call vote was 4-1 (Willey opposed). Motion carried.

Fire Department. \$419,022.66 - A motion was made by Selectperson Hall, seconded by Elwell, to accept the Town Manager's recommendation of \$419,022.66 for the fiscal year 2022-2023. The roll call vote was 5-0. Motion carried.

Animal Control. \$9,677.36 - A motion was made by Selectperson Hall, seconded by Elwell, to accept the Town Manager's recommendation of \$9,677.36 for the fiscal year 2022-2023. The roll call vote was 5-0. Motion carried.

Roads & Property Management. \$697,991.37 - A motion was made by Selectperson Hall, seconded by Sawyer, to accept the Town Manager's recommendation of \$697,991.37 for the fiscal year 2022-2023. The roll call vote was 4-1 (Willey opposed). Motion carried.

Solid Waste. \$595,804.99 - A motion was made by Selectperson Sawyer, seconded by Elwell, to accept the Town Manager's recommendation of \$595,804.93 for the fiscal year 2022-2023. The roll call vote was 5-0. Motion carried.

General Assistance. \$2,500.00 - A motion was made by Selectperson Elwell, seconded by Sawyer, to accept the Town Manager's recommendation of \$2,500.00 for the fiscal year 2022-2023. The roll call vote was 5-0. Motion carried.

Social & Community Services. \$332,573.00 - A motion was made by Selectperson Hall, seconded by Sawyer, to accept the Town Manager's recommendation of \$332,573.00 for the fiscal year 2022-2023. The roll call vote was 5-0. Motion carried.

Parks & Recreation. \$113,077.11 - A motion was made by Selectperson Sawyer, seconded by Hall, to accept the Town Manager's recommendation of \$113,077.11 for the fiscal year 2022-2023. The roll call vote was 4-1 (Willey opposed). Motion carried.

Harbors. \$407,855.84 - A motion was made by Selectperson Sawyer, seconded by Elwell, to accept the Town Manager's recommendation of \$407,855.84 for the fiscal year 2022-2023. The roll call vote was 4-1 (Willey opposed). Motion carried.

Unclassified. \$119,837.00 - A motion was made by Selectperson Hall, seconded by Elwell, to accept the Town Manager's recommendation of \$119,837.00 for the fiscal year 2022-2023. The roll call vote was 5-0. Motion carried.

Revenues. \$1,398,575.00 A motion was made by Selectperson Elwell, seconded by Sawyer, to accept the Town Manager's recommendation of \$1,398,575.00 for the fiscal year 2022-2023. The roll call vote was 5-0. Motion carried.

A motion was made by Selectperson Elwell, seconded by Willey, to extend the Select Board meeting beyond 9:00 p.m. The roll call vote was 5-0, in favor. Motion carried.

The Budget Committee voted on the FY'2022-2023 Budget.

Budget Committee Chair, Susy Ellis, reported that the Budget Committee voted to accept the Town Manager's recommendations on the FY'2022-2023 town budget, and their roll call vote was 6-0, in favor.

- Minutes: The minutes of February 28, 2022, were reviewed and corrected.

A motion was made by Selectperson Elwell, seconded by Hall, to approve the February 28, 2022, minutes, as amended. The roll call vote was 5-0, in favor. Motion carried.

- Communications:

- A thank you letter from Kristin Falla to the town for holding a workshop with public participation on The Happy Clam.
- A letter dated March 4, 2022, from Bonnie Percival with a suggestion of mediation to resolve issues between Greg Howland and the community.
- A thank you letter, dated March 13, 2022, from Bonnie Percival regarding issues concerning The Happy Clam.
- A letter from Peter Dyer.

- Warrant: The warrant for the week of March 14, 2022, was reviewed and signed. The total expenses were \$1,071.35 and included regular expenses.

TOWN MANAGER'S REPORT - Richard Erb reported the following:

Skateboard Park. There has been some success in discussions with Dick Nixon at the Port Clyde Water District and it looks like they will support the construction of one in Port Clyde next to the Fire Station. Erb said they were hesitant, but Vail convinced them that with security cameras this would work and if it did not work, the park would be removed.

Assessing/Planning Board Clerk. Magan Wallace was hired to replace Beth Smith.

Town Motto for St. George. Erb stated he was contacted by a freshman in college who created a deck of playing cards with pictures of Maine towns and would like to have a slogan on the back of the cards. The Select Board was not aware of any town motto. Selectperson Sawyer suggested Erb contact John Falla about this.

COMMITTEE REPORTS:

- Planning Board: Chair Bates reported the Planning Board met on March 8, 2022, at 7 p.m.

- The application for a commercial building permit to install a food prep trailer, an open deck, storage & sales building, and a parking lot at 13 River Road (The Happy Clam) was considered; the board concluded that the application was incomplete, as a number of details were missing. An onsite visit was scheduled for 9:00 a.m., April 16, 2022.
- The application for a commercial building permit to install a skateboard park was considered at 731 Port Clyde Road (Port Clyde Firehouse); the board concluded that the application was incomplete, as a number of details were missing. An onsite visit was scheduled for 5:00 p.m., April 7, 2022.

- Conservation Commission (CC): Selectperson Willey reported she sent out the finalized minutes from the CC's last meeting but was unable to attend the March 10th meeting.

- Shellfish Committee: Selectperson Sawyer reported the committee met on March 10, 2022, in person and by Zoom. A representative from the Department of Marine Resources spoke about reducing the number of licenses that were available by two. Sawyer stated the Committee requested a reduction of licenses by two.

OLD BUSINESS: No other old business.

NEW BUSINESS:

- Proposal for Cell Phone Tower at Transfer Station: Chair Bates stated Town Manager Erb received a proposal request to erect a cell phone tower at the Transfer Station. The Board discussed whether to authorize the town manager to proceed in discussions with the applicant.

Selectperson Elwell: Is this the same company that wanted to install a cell tower in Port Clyde?
Chair Bates: The company is called B.T. Group and it is a different company that approached the town about the Port Clyde firehouse.

Selectperson Hall: There wasn't any information on how tall the tower would be. I recall the tower had to be, depending on the height, a percentage greater than the height away from property lines and other buildings. There are setback requirements, so the proposed place where they want to put it does not look like it would be far enough away from the property line and/or the building.

We also talked about the possibility of accessing the land behind the Transfer Station. If they moved away from the property line and had to put a road down into that area, that could be helpful to the town in opening up access to that property. If they put a road down to the 100' x 100' space, a negotiating point could be that it is on town property, and we want to use that road. You could swing around it as you would not want it to block the town's access to that other part. I looked at the contour maps Bates prepared when we had been looking into a possible land purchase and putting a cell phone tower there might help us arrange a small land purchase.

Chair Bates: Erb's been talking with Mr. Fields about that.

Erb: As an abutter and someone we have been talking with, I wanted him to know that we had been approached.

Chair Bates: Erb has done some research with MMA about requirements.

Erb discussed suggested wording for an article in the town warrant that would authorize the Select Board to negotiate a long-term lease. You should tell what it is for and roughly where it is located. They do not have to get into the specifics of how much or any of that.

Selectperson Willey: We are already looking at purchasing more property because we don't feel we have enough at the transfer station. So why would we give them a piece of our property when we don't have enough? And there is already a cell phone tower down the street, so I don't understand why they want another one so close when we have such poor service in Port Clyde? Why aren't they looking at providing better service?

Chair Bates: From my electrical engineering background, I don't think there is much difference whether the tower is at the Transfer Station or the firehouse in Port Clyde.

Erb: Would you want all of the details of this lease before we go to the town meeting?

Selectperson Willey: I read a lot about the company, and I don't have a good feeling about them. So, they took google earth photos and then made their plans? They didn't come to the town first.

Erb: I was contacted twice. I said I would ask to have it put on the Select Board's agenda.

Chair Bates: I assume the company would show they have some reason they want to invest money in a new tower. They must have customers in mind. It would be good to know how much it would improve the service.

Selectperson Hall was concerned about the company's push and pressure, timewise, on this.

A motion was made by Selectperson Hall, seconded by Elwell, to authorize Town Manager Erb, to further investigate the issue of a cell tower at the St. George Transfer Station requested by the company, B.T. Group. Roll call vote was 5-0 in favor. Motion carried.

- Moderator for Town Meeting: Town Manager Erb said he would talk with Michael Mayo of Thomaston to see if he planned to attend the St. George Town meeting in May.

- Discussion of a Town Meeting Location: The Select Board discussed whether to hold Town Meeting under the tent in the town office parking lot, in the fire station room, or possibly at the Municipal school. Selectperson Elwell noted the school's current policy was that no one was allowed in the school unless they had to be there. Chair Bates said he would talk with Michael Felton about the possibility of holding a town meeting at the school.

Newly Elected and Outgoing Select Board Members: Chair Bates suggested that the newly elected Select Board members be sworn in at the end of the Town Meeting. Selectperson Hall thought the outgoing Select Board members should retain their positions and participate in the discussions for the meeting.

Discussion on Optional Wearing of Masks: The Select Board met consensus. As of the March 28 meeting and subsequent Board meetings, masks would be optional. Erb remarked that the town office policy on masks was optional. Selectperson Hall felt the wearing of masks should be consistent with town policy. Chair Bates asked Erb to have this option put on the town website.

Signatures for the GA and Shellfish Warden Appointment Forms: At the February 28, 2022, Select Board meeting, the Board voted to appoint Irene Ames as the General Assistance Administrator and Jeffrey Schroeder as the Shellfish Warden. The Select Board signed the forms authorizing these appointments.

On a motion by Selectperson Hall, seconded by Sawyer, at 9:50 p.m. by a roll call vote of 5-0 in favor, the meeting was adjourned.

Respectfully Submitted,

Marguerite R. Wilson
Select Board Recording Secretary