

April 16, 2019

The Meeting of the Board of Selectmen held on Tuesday, April 16, 2019 beginning at 6:00pm in the Selectmen's Conference Room, Town Hall.

Members Present: Chairman Derek DeBarge, Mr. Silva, Mr. Goncalves, Mr. Rosenblum, and Mrs. Fernandes (arrived late)

First Order of Business: The Pledge of Allegiance

**Visitations:**

Frank's Diner – Liquor License Hearing:

Mr. DeBarge: Mr. Goncalves is going to recuse himself from this visitation. Mr. Evangelista before we get started there are two disclosures that need to be read. One by me and one by Mr. Rosenblum.

Mr. DeBarge Disclosure: My disclosure in this hearing is that before I became a Selectmen I was a Police Officer in Town for 16 years almost 17 years. Within that time, I grew to know you and also arrested you at one time in 2007. Due to that arrest I filed a disclosure paper that is in your packet here. I filed it with the Town Clerk's office, with the Board of Selectmen's Office and also notified the ethics commission stating that at no time that due to my duties as a Police Officer in conducting those duties that I came to know you and that I was in my duties as a Police Officer that I did arrest you. However now that I am on the Board of Selectmen I feel that I can be fair and partial as a Board of Selectmen during these proceedings and that I will be fair and partial. That is my disclosure. Do you understand?

Mr. Evangelista: Yes.

Mr. DeBarge: Ok. Thank you. Mr. Rosenblum.

Mr. Rosenblum: Mr. Evangelista, my name is Bill Rosenblum. I am newly elected. My disclosure is just the fact that my mother-in-law is friends of yours, is a friend with you. But Mr. Evangelista, I have never met you before, you have never been to my house, I have never actually been to your business or to your residence. So therefore, that is the only disclosure I wanted to make. Basically, so the Board knew that and if there was anything that was just off my conscience obviously. With that taken into account the facts I have disclosed above I feel that I can perform my official duties objectively and fairly. Do you understand?

Mr. Evangelista: Yes

Mr. DeBarge: Ok. Now sir, the first thing I want to do to get started is to first go over the notice that you were given about this hearing. You have in your packet the letter that you received about the hearing and also the folder that I gave you sir, and also the letter that you got and also the signed receipt that you got the letter about the hearing and that we got that returned to us saying that you are aware of this proceeding. Do you understand that sir? Did you get that, did you sign?

Mr. Evangelista: I signed or someone else signed for it, I wasn't there.

Mr. DeBarge: Were you made aware of the meeting?

Mr. Evangelista: Afterwards, the following day.

Mr. DeBarge: The following day that you got the letter.

Mr. Evangelista: Yes

Mr. DeBarge: Ok. What I am going to go over tonight is, actually to start off Mr. Evangelista I am going to let you start off with an opening statement if you so inclined.

Mr. Evangelista: Before this letter came, they came down to inspect the diner and they said they would be back in ten days. So, he was there yesterday, the Board of Health and everything is done. Everything is done and the rest is up to you, whatever you guys come up with here. I don't know, I did everything the Board of Health wanted which was nothing really and the deficiencies that were very small, I did them all. And I am here for now to find out about my license.

Mr. DeBarge: Ok now that's with the Board of Health. Right? Were there other violations that were found?

Mr. Evangelista: He never showed me any, he never mentioned any but those are done already. It was small, cap a thing it was just a cap a gas main or one of the gas things just to put a cap on it and where the sewer goes down to screw it in tight that's all, there was nothing else. The other one, the water was too hot and I lowered the water temperature, that's all, it was a dial and you lower it, it was nothing. But he never gave me anything like he did last time. He never told me what to do. I just saw it in the letter when I got it on a Thursday.

Mr. DeBarge: Who is he, sir?

Mr. Evangelista: The Building Inspector

Mr. DeBarge: Ok.

Mr. Evangelista: The Board of Health were there and they came back like they said, and everything is fine. The Building Inspector never gave me, oh and the Fire Department tell me to get one of the Fire Extinguishers and that was done, and that was all I had. But, the Building Inspector never gave me any paperwork and he never came back to inspect anything like last time. I'm glad they came yesterday, because I was I have been under pressure with this, I have been very very very under pressure worse than anything because of this. And the Beer and Wine license I don't want to lose it, I've had it for 75 years never had any problem. I can see it being suspended, because that is usually what they do with people who have trouble. I know I was arrested and I can see them suspending it. But I just don't want to lose my liquor my beer and wine license. Everything else is done, I've always done it. We were here last time in January it was done a year ago but the Building Inspector again never came to inspect. So, anyway I have been going to the doctors and taking pills just to relax this bothers me more than anything.

Mr. DeBarge: Do you have anything else to say Mr. Evangelista?

Mr. Evangelista: No. I know me and you don't get along for a reason.

Mr. DeBarge: No that is not the case.

Mr. Evangelista: In the office, I am afraid, I have a man that the Chairman of the Board that will never vote for me. I feel that. That's what I feel, for a problem that we had, I didn't miss anybody, I was there at 11:00 to meet the Building Inspector. He got there at 10:30 he said the diner was closed and he left. So, I went to the Selectmen's Office, Ellie was there, the girls were there, and I didn't know who you were. You were in there and you looked over at me and well I would have been there, if it was my diner, I would have been there at quarter of, and I said I was there at 11 like I was supposed to be and you said again, well I know dam well I would have been there at quarter of. So, I turned around and I said, I got mad, because you said it again.

Mr. DeBarge: That was me trying to help you.

Mr. Evangelista: I got mad, and I'm sorry I got mad but and I didn't know who you were, I didn't know who you were. I didn't know who you were, I would have respected you, I didn't know who you were. All I know is there is this guy in there saying, well I know if it were my place I would have been there at quarter of 11, I was there at 11 like I was supposed to be. So, then I said who is this guy and the girl told me that's one of the Selectmen. So, I knew right away, I turned around to you and said I know I have one vote against me that's for sure. And that's the way we met, and I'm sorry we met that way. And I am sorry we met that way.

Mr. DeBarge: For tonight, for tonight I want to explain to you how this is going to go ok. I am going to call somebody up and ask him a question. What I am not going to allow is you to bud in and ask him any questions while I am asking him questions. Do you understand that?

Mr. Evangelista: Yes

Mr. DeBarge: Ok. Anybody else that is going to ask any questions of who I am going to call up, anybody from the Board I just want you to listen and not jump in and ask any other questions. Do you understand that? Ok I appreciate that. Captain Falconer, could you come up please.

Captain Falconer: Good Evening.

Mr. DeBarge: Could you state for the record your full name and where you work and what your duties are.

Captain Falconer: Seth M. Falconer, Captain Ludlow Fire Department, Fire Prevention Officer.

Mr. DeBarge: Did you inspect Franks Diner? Could you give the dates of your inspection and the findings?

Captain Falconer: Most recently was 3/20/19 myself along with the Building Commissioner and Tim from the Board of Health inspected his property.

Mr. DeBarge: Ok. What were your findings their Captain?

Captain Falconer: Personally, I found, and I discussed this with Mr. Evangelista at the end and he did sign and acknowledge there was a combustible couch in the rear of the building he did agree to remove it from the property. Removal of combustibles within 36 inches from the electrical panel located downstairs in the basement there was some cardboard boxes. I advised him of his ABC dry chemical extinguisher in the kitchen it was up at the end of the month. And at the time there was a mop bucket blocking the exit. I advised him, and he did move it at the time of advisement.

Mr. DeBarge: Were there any violations that needed to be taken care of from then until now?

Captain Falconer: Basically, everything that I said to you right now, I told Mr. Evangelista and he agreed to correct that in a timely manner to rectify it. Mr. Evangelista did not contact my office for a reinspection of the property.

Mr. DeBarge: Ok that was my next question. Does the, when completed does it need to be re-inspected?

Captain Falconer: I mean I don't know if he made the corrections or not.

Mr. DeBarge: Ok

Captain Falconer: I would have to go get eyes on it.

Mr. DeBarge: So, it needs to be re-inspected and he didn't call.

Captain Falconer: Correct. That's just speaking from my department.

Mr. DeBarge: Right ok.

Captain Falconer: As opposed to Building and Board of Health.

Mr. DeBarge: Does anybody have any questions from the Board.

Mr. Evangelista: I was re-inspected yesterday.

Mr. DeBarge: Hold on.

Mr. Evangelista: Everything he said was done.

Mr. DeBarge: Hold on.

Mr. Silva: Yes, that's what I am get at Frank. So, as you stated.

Mr. Evangelista: Two days later everything was done.

Mr. Silva: But you got nothing from the Building Inspector obviously he didn't show up and he hasn't re-inspected. You don't have that, but your saying that you have complied with what he left you or what you got in the letter as well as the Fire and the Board of Health.

Mr. Evangelista: Mr. Falconer, I did everything, first thing.

Mr. Silva: Who is that that inspected?

Mr. Evangelista: This was Timmy from the Board of Health. He was there yesterday and everything that he said, the couch that was done, that was moved the next day. I paid somebody \$100 they cleaned out the whole cellar they moved everything. He went there today, said beautiful.

Mr. Silva: That's the Board of Health, right?

Mr. Evangelista: Board of Health.

Mr. Silva: So, what we are getting at is I believe the Fire Department needs to go there as well.

Mr. Evangelista: Yes, that was done already, I called the Board of Health on here I just called the Board of Health.

Mr. Silva: I think you need to call three people. You need to call the Fire Department

Mr. Evangelista: I didn't call the Building Inspector because he didn't leave me anything. He did not leave me anything. I got that in here. I got this from the Building Inspector right here and there was nothing. He left there here, but he never told me that when he was there. He didn't tell me nothing about that.

Mr. Silva: He never sent you a

Mr. Evangelista: He never said nothing. Mr. Falconer gave me, he told me about the, I brought it to Three Rivers and they ...it up and it was down at the diner and that was done Tuesday. Two days later I went and picked it up and all this I called the Board of Health Wednesday and then Friday, Carolyn told Timmy to get down there and do it because I have to get it before I come here. So, thank god he came here and did that. I have that here.

Mr. Silva: Your stating that what you have before you that you were notified has been done.

Mr. Evangelista: It has all been done.

Mr. Silva: So, all we need is certification, we have the Board of Health, yes, we have the Board of Health. I'm sure that

Mr. Evangelista: Mr. Falconer was that the Fire Extinguisher. I thought it was included with everything, because you know we were there, but I didn't know I had to call him, but its done. Its been done. It was done two days later. I did everything.

Mr. DeBarge: Ok are there any other questions about this?

Mrs. Fernandes: Yes. So, you talked a lot, is it just about the Fire Department?

Mr. DeBarge: Yes

Mrs. Fernandes: nothing

Mr. Rosenblum: I have one question. So, the sheet that we have here is what Exhibit B the one that has everything Justin submitted to us, Frank did not get this.

Mr. Evangelista: I didn't get that.

Mr. Rosenblum: I mean I want to be clear.

Mr. DeBarge: Which one is that.

Mr. Rosenblum: This one here.

Mr. Evangelista: Do you want me to read the thing he gave me this is what I got Thursday. Uncapped gas line in basement to be assessed by licensed plumber. It's a screw, you got to get a one-inch screw thing just screw it on and cap it. The condensation pump on furnace not tied into the drain line properly. It was dropping into the sewer into the, it was dropping, but I guess its got to be drained into a bucket or something. Water temperature is extremely hot and a dangerous level. That's the hot water tank. I just lowered it. A main sewer drain plug not installed properly must be fixed by licensed plumber. One day when we were snaking there we uncapped it and the guy didn't tighten it on good enough all it was to be was tightened. Those are the things that I got Thursday. I called him three times, I talked to Ann, I tried to talk to him to come down because it is done, just to come down and nobody ever came down and I never talked to him because he wasn't there.

Mr. DeBarge: So, Mr. Evangelista, this is was in your packet. You were given this by the building inspector. Is that the form that you have right there?

Mr. Evangelista: Yea Yea that's it.

Mr. DeBarge: The one that you have right there that you have circled and written on. Are those the things that you are saying are taken care of but was not inspected? Or was covered or looked at.

Mr. Evangelista: This wasn't given to me until Thursday.

Mr. DeBarge: March 20<sup>th</sup>. It is dated March 20<sup>th</sup>.

Mr. Evangelista: This came in last week.

Mr. DeBarge: It is dated March 20<sup>th</sup>.

Mr. Evangelista: When did I sign for it. You got when I signed for it. Check and see when I signed for it.

Mr. DeBarge: It's dated March 20<sup>th</sup>.

Mr. Evangelista: Ok. When did I receive it? Not March 20<sup>th</sup>.

Mr. DeBarge: Check your, was it in the mail?

Mrs. Villano: In his packet that he received, that was sent out April 3<sup>rd</sup>. It was mailed April 3<sup>rd</sup>.

Mr. Silva: Yes, Posted April 5<sup>th</sup>. Frank when did you call the inspector to come down and inspect?

Mr. Evangelista: Wednesday, Thursday, Friday. Wednesday and Thursday.

Mr. Silva: So, you're talking last Wednesday you called.

Mr. Evangelista: I just got that.

Mr. Silva: You also called on Friday.

Mr. Evangelista: Maybe Friday, yea ok Friday last week. When I received, whatever I received I called.

Mr. Silva: I am just trying to get a date line because inspections are supposed to happen within 48 hours if I am not mistaken. I am just trying to get a timeline.

Mr. Evangelista: The Board of Health was supposed to come in last week to ok, your right last week. I had called, that's right it was last week because it was Friday when I talked to Carolyn to get somebody to come down and inspect it. Because I have to go to the Board of Selectmen on a Tuesday and it was Friday when I talked to Carolyn and it was Wednesday and Thursday of last week that I called the Building Inspector, I talked to Ann and I asked for him.

Mr. DeBarge: So what day did the Inspector come down from the Board of Health?

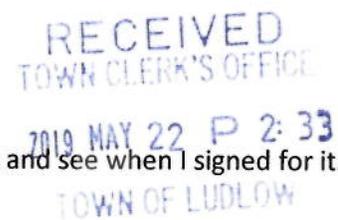
Mr. Evangelista: He came down today or yesterday. He went down there yesterday, or was it today, no he was there today. I'm sorry, listen I'm upset I mean I'm really, he was there today.

Mr. DeBarge: Captain Falconer thank you. Ok.

Mr. Evangelista: He was here today, what's today 4/16.

Mr. DeBarge: Mr. Evangelista we are going to move on from this. We are going to continue on from this, I need you to listen to me. Ok. This hearing is mainly pertaining and again for your... pertaining to your liquor license since you are the licensee. This is pertaining to mainly the incident that happened on February 15<sup>th</sup>. I want to explain to you that as the local licensing authority in the Town which is the Board of Selectmen. Our threshold for proof for a violation for a licensee holding a liquor license per the law and I am going to explain to you what that law is so that you understand it. "No licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises. The licensee shall be responsible therefore whether present or not. The licensing authorities after notice to the licensee and reasonable opportunity for him to be heard by them may modify, suspend, revoke or cancel his license upon satisfactory proof that he has violated or permitted a violation of any condition thereof or any law of the commonwealth. If the License is revoked the licensee shall be disqualified to receive a license for one year after the expiration of the term of the license so revoked if he is the owner of the premises described in such revoked license no license shall be issued to be exercised on said premises for the residue of the term thereof." For the Board to modify, suspend or revoke a license it must have satisfactory proof. I am going to say this one more time, for the license violated or permitted a violation of any condition thereof or any law of the commonwealth. Satisfactory Proof.

This brings me to the criminal complaint, which the criminal complaint is made out by the court docket. The criminal complaint received from Palmer Court the complaint set forth under oath lists the offense committed by the licensee. The complaint was signed by the presiding clerk or assistant clerk means that the presiding clerk found that there was probable cause for the criminal allegation set forth in the complaint. Probable cause is a higher threshold of satisfactory evidence. Is a higher threshold of



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evidence than satisfactory proof. There is no dispute when there is probable cause found. There is no dispute to the charges that are found in this criminal complaint in this docket in court from that night. There is no dispute to the charge of ammunition without FID card possession of. There is no dispute to drug possession of Class B suboxone. There is no dispute to drug possession Class E, there is no dispute to drug possession Class E and no dispute to cocaine trafficking 36 grams or more. These pages are similar. The police report that I have here, this is the cover sheet of the police report with details, the officers, all of the calls. It also lists times that things happen, that events happened, the officers involved, and it also lists the individuals arrested and the charges that they were arrested for. One of the individuals on the cover sheet from the police department that was arrested was Frank Evangelista. Francisco Evangelista of 49 Franklin Street. Cocaine trafficking, possession of ammunition, Drug possession Class B, Drug possession Class E, drug possession with intent to distribute Class E. Within this police report there are narratives written by the reporting officers. In their narratives, they write about the events from beginning to end of what happened that night. Everybody that showed up, everything that happened, the arrest, the searches and seizures of evidence, photographs all documentations of all events that happened. Again, no dispute.

Mr. Evangelista: May I speak now?

Mr. DeBarge: I am not finished. One second. I will go back one more time to satisfactory proof that no licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensed premises the licensee shall be responsible therefore whether present or not. You were present. Were you not sir?

Mr. Evangelista: Yea I was outside. Now ammunition, you come up with ammunition that's been down in the cellar for fifty years. Shotgun shells, could have been my fathers. What other Class, what I had 400 pills of Cialis and Viagra. What else was that charges, plus I'm not even found guilty yet. I am still going to court. Now you had Viagra, Cialis you had a ...what was it what else did you say.

Mr. DeBarge: Cocaine.

Mr. Evangelista: We had Cocaine. They found the cocaine. Ok, and ammunition. I hunted all my life, that's stuff has been there its still there, they didn't even take it with them. It's still in a bag over there, its old shotgun shells that are just old shotgun shells. So, this is all...

Mr. DeBarge: Mr. Evangelista, like I said crimes were committed.

Mr. Evangelista: I see what you want to do. We don't get along and I can see that you are trying very hard to take my license away.

Mr. DeBarge: Crimes were committed. No. Crimes were committed.

Mr. Evangelista: I have had my license for years, and I can't see how I can have my license taken away. I can see you suspending for as long as you want.

Mr. DeBarge: Drugs were sold at your establishment. The police report says drugs were sold at your establishment.

Mrs. Fernandes: Mr. Evangelista, my name is Carmina Fernandes. First, I do want to tell you that even I have had arguments with him about timing when he first opened this meeting about the fact that you weren't there at the time. We have had arguments about timing and we argue about that so don't take that personal. It's different ways of seeing time we have. My question to you, Mr. Evangelista is do you have a criminal record before this?

Mr. Evangelista: No

Mrs. Fernandes: Do you have any violations with the MDOR at all? The Massachusetts Department of Revenue.

Mr. Evangelista: No

Mrs. Fernandes: Have you been found in violation of any employee, workman's comp.?

Mr. Evangelista: Oh, I just got that. Yes, I had a girl work for me. I have that.

Mrs. Fernandes: Can you tell us a little bit more about that.

Mr. Evangelista: I have liability I bought my liability. In fact, with Mr. Goncalves I bought liability. She came over and I paid a fine. I have one girl working with me. I just paid a fine on it. I got her on my liability now. That's the only problem I had there. That happened about a month, whatever. She came in, so I got liability right away because it is \$250 a day so I got liability, I got workman's comp.

Mrs. Fernandes: You do understand that having Workman's Comp in place is part of the licensing approval. You have to have all of that in place.

Mr. Evangelista: She works four hours a day for me. That's all that was going on. Sometimes she doesn't work sometimes she works, so I didn't have it, now I have it. They corrected me on that. I didn't think I needed workman's comp for just one person. Especially working she helps me out. I'm there every morning now at 6:30 in the morning, it's a change in life because of what's going on. But I am there, and I got to work, and I have been working hard. I've been, I just don't want to lose my license.

Mrs. Fernandes: I understand, but do you understand why this Board had enough concerns to bring you in because our Ludlow Police found several violations there. Not, now I was a little bit surprised and taken aback by you just saying "it's just Viagra and it's just cocaine" do you understand that this Town has a huge drug problem. One of my concerns, I am going to be honest with you is at a point that drugs are being distributed. I am not saying it is, I don't have any, but you know your attitude towards even cocaine, is a little surprising for me, cocaine is a drug.

Mr. Evangelista: It is a drug.

Mrs. Fernandes: Granted you are going to have court date for that but the fact that our police did find a lot of these different substances is concerning to me on a man who is the holder of a liquor license...supposed to enforce the laws about drugs and alcohol. That's concerning to me.

Mr. Evangelista: I didn't have any on me. That's why I am going to court with this. I have not been found guilty, I was arrested and ammunition that's a farce and the pills its its its...you can buy them online. Somebody bought them online and I did buy them online and that's ...

Mrs. Fernandes: But then there was other people also on your premises that were there when the premises was supposed to be closed. They are on the premises, and you know there is all of this other added, and I am going to be honest with you, I tried to always come in here with a very neutral opinion towards everything and listen and I did some homework on licensing. Liquor Licensing what's our threshold, does he have to be found guilty in court. Then I read under MGL 138 that even to just get a license issued you have to be of good moral character. So, when you reapply for your license if you are not of good moral character you can't even get your license. Then I think about this town and the deaths that this town has faced with young kids. I have a best friend that lost her 18 year- old child, I have an attorney friend that lost her child.

Mr. Evangelista: There is nothing like that, no young people ever came to the diner looking for drugs. None of them.

Mrs. Fernandes: I understand that, I understand that but.

Mr. Evangelista: Whatever went on in there, there was nothing like that going on in there.

Mrs. Fernandes: Just to me I find that somebody who holds a license, and has a violation of workman's comp., was caught with the police with drugs on them that to me concerns me. Oh yes workman's comp is part of licensing.

Mr. Evangelista: I have it now. I didn't have it for about two years, I have it now. I always had it, but now I have it again. I won't let it up. But I just don't want to lose my, have my license taken away. I can suspending for a long period of time but I can't see it being taken away. I am asking you not to take it away that's all.

Mrs. Fernandes: I totally understand and there is a lot of people in town that like hunt and carry shells on them, but they don't get caught with drugs on them, that's what bothers me.

Mr. Evangelista: I have been there for years, I have been there for years.

Mrs. Fernandes: I like to hear that a court finds you guilty but, then there is all this public outcry there, I have seen it on the media when you were first arrested. People in the town are saying are you kidding me, that place is, not that you know, but this is the connotation that people have out there. And then

you are a liquor license holder that is supposed to be enforcing the liquor license laws and you get caught with something you, it's nothing it's just Cocaine; it's just Viagra, it's just you know Class B, Class D that to me really bothers me. That's all I have to say right now.

Mr. DeBarge: Anyone else?

Mr. Rosenblum: I just, Mr. Chairman.

Mr. DeBarge: Mr. Rosenblum.

Mr. Rosenblum: In the same sense I am always here with an open mind I want to hear all the facts, I want to hear of course what you have so say. In the same sense I kind of look at things black and white and I try not to look at grey areas as much when it comes to things concerning the town and obviously I ran on a platform of really trying to push drugs out of the town. I just really think as I say as it comes down to black and white 204CMR pretty much says it. It's not on I don't think, and you would know better than me, but this really isn't on a legal level it's just basically disorder. Disturbance obviously a legality on a licensed premise whether you are there or not. I mean just for me looking at it black and white that's what I am looking at. I understand everything else that has to do with the Fire Department and that is something that you will have to clear up also because there is three different entities that you have to talk to not just one covers two. But its just, I look at it black and white. This 1204CMR2.05 disorder, disturbance or illegality. That's all.

Mr. DeBarge: That was my point of it for everybody listening, for Mr. Evangelista himself was to point out the facts which are the most important is our threshold of proof and the simple fact of that CMR is that any disturbance, and illegality the licensee is responsible for whether he is at the premises or whether he is not. Our threshold as a Board of Selectmen is much less than probable cause and most importantly the criminal complaint on the court docket from Palmer rises to the threshold of probable cause. That's why there is no disputing those charges. What happens in court at the criminal level has nothing to do with the fact of what happened that night. That is the truth of it. We need to be concerned with what goes on in our Town and the drugs that are coming and staying in our Town. Everybody knows it and we need to act on it period. At this point in time if anybody doesn't unless another, anyone else has a comment, I will entertain a motion.

Mrs. Fernandes: I just want to add again, besides the CMR that you mentioned, there is also the Massachusetts General Law 138 that even just to renew a license, even if you came back to renew your license you have to be of good moral character. How can we look at someone that is caught with Cocaine? Imagine me as a Board of Selectmen and I am stopped by the police and caught with Cocaine how are you going to look at me? That's all I have to say. Mr. Chairman.

Mr. DeBarge: Mrs. Fernandes.

Moved by Mrs. Fernandes to revoke Mr. Evangelista's license I can entertain a certain amount of time but at least up to a year.

Mr. Silva: Mr. Chairman, for clarification, Mrs. Fernandes did say revoke. That's actually going away, if you are revoking its revoked. If you are looking for suspension for at least...

Mrs. Fernandes: But there is cancellation, there is suspension, there is revocation, and there is cancellation.

Mr. Silva: And suspension.

Mr. DeBarge: Then revoke it.

Mrs. Fernandes: So, what's the different between revocation and cancellation?

Mr. Silva: Just trying to clarify, just trying to get clarification of what...

Mr. Evangelista: There you go. Suspend. She wants to suspend the license for a period of a year, that's what she said. She said revoke, but she meant suspend.

Mrs. Fernandes: Maybe suspend. I actually.

Mr. DeBarge: That's our deliberation, Mr. Evangelista.

Mr. Silva: I was just looking for clarification of what it is you are trying to make a motion.

Mrs. Fernandes: I just thought because there is also the possibility revocation, suspension, revocation, cancellation I just thought revocation was...

Mr. Silva: If you don't mind, maybe we can get some kind of clarification from Ellie on which one. Which is what.

Mrs. Fernandes: How long does he have on the license? Ellie what's his current license, when does that...

Mr. Silva: Till the end of the year.

Mrs. Villano: December 31<sup>st</sup>. Liquor Licenses are on an annual basis. And as to suspend, I defer to our counsel or our Chairman on the difference in the three. I think if you revoke the license its revoked you no longer can have the license.

Mrs. Fernandes: Probably for a certain amount of time but then you reapply then, in my mind that is what I was looking at. You revoke it for a certain amount of time and then he can reapply. Cancellation is cancelled, it's permanent and he can never reapply is my, and I thought suspension was for a certain amount of time.

Mr. Evangelista: Suspending

Mr. DeBarge: I would like to hear from Rebecca.

Mrs. Fernandes: Could you present yourself.

Mr. DeBarge: Attorney Thibault I'm sorry.

Attorney Thibault: Rebecca Thibault from Town Counsel for Town of Ludlow. I have seen cancellation used in terms of you know if someone is given, is granted a license and then they don't pay their license fee and then they are given a certain amount of time to pay that and if they don't actually pick their license up the Board can cancel the license. Suspension I would say is you know if you have a set amount of time where the license cannot be exercised, but after that it will be, they can exercise their license and use it. Revocation is permanent, and you revoke the license. If you suspended the license pending the outcome of a criminal proceeding I think that is an option, the case law isn't fully on your side with that, but I think it is an option that this Board could do. Of course, there is an appeal right before the ABCC but that is a separate matter. If you suspended based on that, I don't know how long that case will take. I am guessing there would be a, he would have to reapply before that case is done before any criminal findings and so in that case there would be a reapplication of the license by the end of the year.

Mrs. Fernandes: If we vote to suspend pending the outcome of the court and then he would reapply when?

Attorney Thibault: I am guessing that the court would not come till, that trial would not be done by the end of the year and so if it was suspended that length of time would be required to go through the reapplication that every other licensee is supposed to at the end of the year. If it were still suspended and you still wanted to withhold it, it would still be...

Mr. Silva: It wouldn't renew for the upcoming year...

Attorney Thibault: Right you could decide whether or not to renew if you renewed contingent on the outcome of that. I haven't looked into whether that is allowed but you would probably take it into account and the renewal application time.

Mrs. Fernandes: From my understanding is that we don't, it doesn't just have to be contingent on, we can have enough satisfactory evidence at this point to revoke it without...

Attorney Thibault: That is for the Board to determine you know for satisfactory evidence. Your going to look at the evidence you have, you are going to look at is the evidence we have and the witnesses we heard from are they credible. If so, why is this person or this item more credible than any disputing evidence or document. And if that evidence has indicia of reliability and is credible then you can rely upon that to find that you are, you met the standard of satisfactory proof.

Mr. Silva: Thank you

Mrs. Fernandes: So, I would revise my motion to say suspend the license for a year.

Mr. Silva: For the remainder of the year. Because he would have to renew at the end of the year, so remainder of the year.

Mrs. Fernandes: ok remainder of the year. Wait I just want to make sure I understand my motion before we go ahead.

Mr. Rosenblum: He would have to reapply at the beginning of the new year anyway and that point we can deny and still keep it suspended.

Mr. Silva: We don't have to renew.

Mr. Rosenblum: Unless the court date occurs before then and we have a verdict.

Moved by Mrs. Fernandes seconded by Mr. Silva to suspend his license until the end of the year and then reconsider upon reapplication. Vote 4-0 all in favor.

Mr. Silva: Please get those other inspections, you still need to get, Seth was here, they still need to go there, and the building inspector needs to go there.

### **Budget Discussion:**

Kim Collins and Eric Gregoire

Financial Indicators – The Town was awarded a Community Compact Grant through the Community Compact Grant Initiative. It involved creating a Financial Indicators Analysis and assisting the town with creating new town policies. The Financial Indicators within this report are meant to provide a snapshot of the town's fiscal health by identifying trends and key revenue expenditure and demographic categories. Each indicator is classified as favorable, marginal or unfavorable.

The first one that is unfavorable is State Aid. It is a percentage of net operating revenue. State Aid is not something that we can control, but what it does show us is that investigating alternative revenue sources is one way to look at this trend. The uncollectible receivables are a percentage of levy, that one is marginal. The funded pension liability that is also marginal, but it is driven by Hampton County Retirement so it's not something we can control, it's based on how well they are doing in the market. Reserves as a percentage of the operating revenue, this is unfavorable, and this is one area that we can do something about. One of the things that we have done is draft policies and procedures specifically related to our reserves and our OPEB.

Mrs. Fernandes stated that the OPEB will still be in place, but we need to get more money from the state or find ways to make more money here in town or find ways to reduce what we are spending. Increasing taxes is not a good solution.

Mrs. Collins stated that our plan this year is to put a sizable amount of free cash into stabilization again. She also stated that we keep going out for borrowing and every time we do that we have to get rated. They are looking at these indicators. That is what is driving our rate. She also stated that next year a decision will have to be made, because you do look at what you have in access levy going from year to year and its shrinking quite a bit. Next year if you're not planning to throw any money at the tax rate you need to see a pretty good influx of revenue or a sizable reduction in your budget, or you will be in an override and we are very close to an override.

Moved by Mr. Silva seconded by Mr. Goncalves to approve the budget as presented and further to move to put \$100,00 into the Fin. Com. Reserve, \$400,000 transferred to Stabilization Fund, \$25,000 to the Building Infrastructure Article, \$75,000 for the overtime salary of police, \$16,738 for bills and deficits for prior years and \$22,500 for the phone system. Vote 5-0 all in favor.

### **Correspondence:**

91. Michael Rodrigues, Vanished Valley Brewing – requesting Special One Permits for a “Beer Garden” at 782 Center Street from 12noon – 5:00pm on April 27, May 25, June 29, July 27, August 31, September 28 and October 26, 2019.

Moved by Mr. Silva seconded by Mr. Rosenblum for the One Day Permit for the dates as you have stated. Vote 3-0 1 abstention

92. John R. Maher, Director of Government Affairs Charter Communications – informing the Board of a change in the channel line-up and programming information.

Moved by Mr. Silva seconded by Mr. Goncalves to file. Vote 4-0 all in favor.

93. John R. Maher, Director of Government Affairs Charter Communications – informing the Board of the Annual Form 500 (Outage Report).

Moved by Mr. Silva seconded by Mr. Goncalves to file. Vote 4-0 all in favor.

94. Sean R. Cronin, Senior Deputy Commissioner, Mass Department of Revenue – providing the Board a copy of the Financial Indicator Analysis for the Town of Ludlow.

(this correspondence will be included in the Budget discussion at 7:00pm)

95. Board Reorganizations – Conservation Commission and Recreation Commission

Moved by Mr. Silva seconded by Mr. Rosenblum to file. Vote 5-0 all in favor.

96. Louis Gilli, Environmental Engineer MMWEC – MMWEC will be conducting their quarterly inspection of its natural gas pipeline April through June.

Moved by Mr. Silva seconded by Mrs. Fernandes to file. Vote 5-0 all in favor.

97. Chief Paul Madera, Police Department – Monthly Crime Briefs for the Months of November, December 2018 and January 2019.

Moved by Mr. Silva seconded by Mr. Rosenblum to file. Vote 5-0 all in favor.

98. Michael Gorski, Regional Director, Mass Department of Environmental Protection – informing the Board of the Western Mass Regional Recycling Program.

Moved by Mr. Silva seconded by Mrs. Fernandes to file. Vote 5-0 all in favor.

99. Martin Suuberg, Commissioner Mass Department of Environmental Protection – informing the Board of the Annual Sustainable Materials Recovery Program Municipal Grant Application.

Moved by Mrs. Fernandes seconded by Mr. Silva to file. Vote 5-0 all in favor.

100. Mary Cassidy, Executive Director, Community Survival Center – requesting permission to designate the Ludlow Town Hall parking lot as a drop off point for the annual “National Association of Letter Carriers Food Drive on Saturday, May 11, 2019 from 11am – 2pm.

Moved by Mr. Silva seconded by Mrs. Fernandes to grant the Executive Director, Community Survival Center to use the parking lot for drop off for the Annual National Association of Letter Carriers Food Drive on Saturday, May 11, 2019 from 11am – 2pm. Vote 5-0 all in favor.

101. Jaimye Bartek, Communications Manager Springfield Water and Sewer – Public Notification of Water Quality Violation.

Moved by Mrs. Fernandes seconded by Mr. Silva to file. Vote 5-0 all in favor.

**Unfinished Business:**

Board to sign (7) Special One Day Permits for Michael Rodrigues, Vanished Valley Brewing “Beer Garden”, if approved.

Mr. Silva stated that he would like to hold off signing the remaining Permits until they hear from the Police Chief about a possible outstanding fee.

Board to approve and sign the Liquor License for Jai Umiya Ma, Inc., dba/Ludlow Shell Convenience Plus.

Moved by Mr. Goncalves seconded by Mrs. Fernandes to approve and sign the license for Jai Umiya Ma Inc dba/Ludlow Shell Convenience Plus, Dinish Patel at 227 Center Street. Vote 5-0 all in favor.

**New Business:**

Board to approve and appoint Annual Appointments

Moved by Mr. Silva seconded by Mrs. Fernandes to approve all Annual Appointments. Vote 5-0 all in favor. (Mr. Silva read the entire list of Annual Appointments in his motion)

Board to discuss the Harassment Training Policy for all Boards, Committees and Commissions.

Moved by Mr. Silva seconded by Mr. Goncalves that we adopt the Harassment Policy put before us and that all personnel whether elected, appointed or volunteer must attend to serve on all Boards, Committees and Commissions. Vote 5-0 all in favor.

Board to approve and sign Seasonal Liquor License for 2019.

Moved by Mr. Goncalves seconded by Mrs. Fernandes to approve and sign the Seasonal Licenses for Ludlow Fish and Game Club, Ludlow Country Club and the Gremio Lusitano Club. Vote 5-0 all in favor.

Board to peruse Board of Selectmen Meeting Minutes of March 19, 2019.

**Closing Comments:**

Mr. Goncalves sends condolences to the family of Eric Nelson.

Mr. Silva also sends his condolences to the family of Eric Nelson.

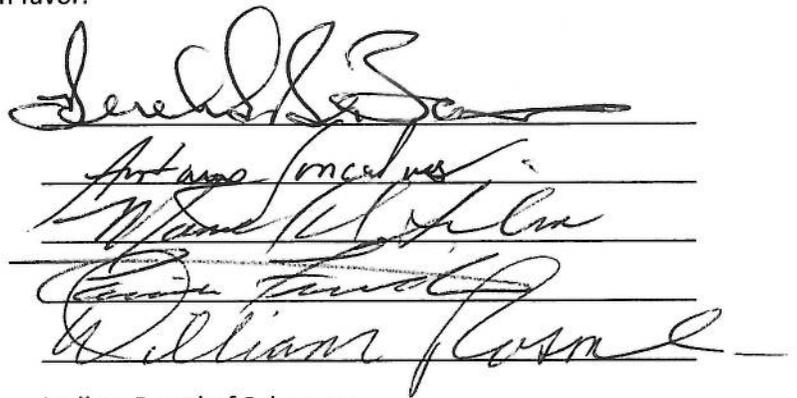
Mrs. Fernandes attended the Veterans Dinner, it was a wonderful event.

Mr. Rosenblum mentioned about the budget and long-range planning and we need to look at where we can capture more funds while preserving our open space at the same time.

Mr. DeBarge sends his condolences to Eric Nelson's family.

Board to enter into Executive Session for the purpose of Labor negotiations. \*To discuss the strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigation position of the public body and the Chair so declares.

Moved by Mrs. Fernandes seconded by Mr. Silva to go into Executive Session at 8:17pm and not return to open session for the purposes of discussing strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigation position of the public body and the chair so declares. Vote 5-0 all in favor.



The image shows four handwritten signatures, each written on a horizontal line. From top to bottom, the signatures are: Derek DeBarge, Arturo Goncalves, William P. Silva, and William P. Fernandes. The signatures are in black ink and are cursive in style.

Ludlow Board of Selectmen

All related documents can be viewed at the Board of Selectmen's Office during regular business hours.