

**Dukes County Commissioners  
Meeting Minutes  
Wednesday, June 24, 2020  
4:30 – 5:51 PM  
REMOTE PARTICIPATION ONLY**

**Dukes County Commissioners Present:** Tristan Israel – Chairman, John Cahill, Christine Todd – Vice Chair, Leon Brathwaite, and Keith Chatinover.

**Other County Officials Present:** Martina Thornton – County Manager, James Hagerty – Edgartown Town Administrator, and Ann Metcalf – Dukes County Treasurer

**Others Present:** Donald Leopold, Kelsie Dahlen – Alchemy Office Manager, T. George Davis – Clerk of the Courts, Paulo DeOliveira – Register of Deeds, and Jennelle Gadowski.

Tristan Israel called the meeting to order at 4:30 PM.

**Approval of Previous Meeting Minutes**

- The Dukes County Commissioner's minutes from the previous meeting were not brought forth for discussion nor approval due to a shortage of help. Martina Thornton mentioned that she asked Jennelle Gadowski to join and take minutes at this meeting.

**Alchemy Request for a License**

- The Tristan Israel explained that the Alchemy restaurant has submitted a request for the use of the Courthouse lawn as an outdoor area [from 5:00 PM on]. He opened up the discussion to the entire Board. There were many who agreed that any business in the towns will help those Islanders currently struggling due to COVID-19.
- Christine Todd expressed her excitement for Alchemy based upon the successful grand opening of the first Pedestrian Zone in Oak Bluffs on Sunday, June 21, 2020. Her concern was for wear and tear damage to the property that was highlighted in the Temporary License Agreement. There is an understanding that Alchemy would do what they could to restore the turf in the fall if something were to happen.
- Leon Brathwaite pointed out that there may need to be advertising to comply with the state bidding law to allow this to happen. Responding to Leon and John's question, James Hagerty mentioned that Edgartown is not charging rent, so no type of RFP would go out since it is less than \$35,000. There was a discussion regarding these unprecedented times and how the Governor's Executive Order #35 overrides town bylaws, town ordinances, and town variances up until November 2020 at the sole discretion of the town based on restaurants and outside dining. Keith Chatinover echoed the points Christine Todd made earlier. Based upon the financial situation that the county is in; he does not think it is unreasonable to at least have a discussion about rent if it can stay below \$35,000.

- Martina and Tristan clarified to John that the motion is based upon approval from legal counsel. She advised him to adopt a policy (similar to Edgartown's) stating that it would be the Town's appropriate authority to give them any permits they need. It was suggested that it be conditioned by legal review in case there are COVID-19 rules in place for Towns to do something different than what would be a regular course of business under procurement laws. She is unsure if it applies to the county or not but will look into it.
- James Hagerty further said that he fully supports the restaurants and wants them to survive. It would not be worthwhile for the town to charge these restaurants a rent.
- Tristan Israel suggested not charging rent this year based upon this discussion by James and others. Christine Todd agreed that keeping restaurants open safely with adequate outdoor space is vital and will in turn help public safety and retailers. Leon Brathwaite cautioned against not charging rent since the Edgartown lawn space essentially has value. James pointed out that municipalities are reinventing the wheel since none of this has been challenged yet.
- **John Cahill made a motion to approve Alchemy's request subject to legal review. Leon Brathwaite seconded the motion. With the motion on the floor, discussion to follow.**
- T. George Davis' concern was about indemnification of the Trial Court since they are a tenant there. He does not want a plaintiff to sue the County and/or the Trial Court for something that could have happened that's completely out of their control. Kelsie of Alchemy replied that she believes that insurance would cover that since they are adding the County and the Trial Court of the Commonwealth of Massachusetts to their insurance policy.
- T. George Davis suggested clarifying that this was not preferred treatment of one restaurant but one of the only/few qualifying options based upon certain requirements. Keith agreed that it needs to be ensured that no other restaurants are interested nor eligible for the space. Martina Thornton mentioned that she had an extensive conversation with the attorney for the Trial Court going over the lease and the requirements of the County. Per Boards of Health there are certain requirements that will limit restaurants from being eligible for outdoor dining due to specifics such as maximum distance from kitchen to serving area. She offered to obtain a formal written confirmation from the Boards of Health to avoid procurement issues. **Keith agreed that there should be something formal from the Boards of Health. He made an amendment to the motion to include both subject to review legal counsel and subject to review by Boards of Health that concludes that they [Alchemy] are the only eligible "bidder/user of the land". Christine Todd seconded the amendment, adding that some business has no access to outside dining, so it is not an equitable situation across the board.** She asked if any other restaurants have approached the County for use of that land? Martina Thornton shook her head 'no' and said they are awaiting a reply from County's legal counsel regarding any conflict reviews.
- James Hagerty stated that Edgartown has a four-step process for approval of a special licensing/permit for outdoor dining areas through the Board of Health, Police Chief, Fire Chief, Highway Superintendent, and elements of Historic and Planning.

- Alchemy stated that they have filled out the Edgartown Board of Health application. BOH did a preliminary review of the outdoor set up and made corrections as needed. They are holding off on a response until they hear from the County. BOH has final veto power based upon how the chairs are set up at the final location.
- Martina said that she feels comfortable moving forward with this based upon their discussions here. If the other restaurants are not interested in this particular space, then there is no need to approach the Boards of Health for approval (since they are busy) before legal review. **Tristan Israel called for a vote on the Amendment of the main motion to approve this pending consult from legal council and Board of Health approval to clarify that Alchemy is the only eligible entity to use that property in that fashion. So voted. John Cahill no, Christine Todd no, Leon Brathwaite no, Keith Chatinover yes, and Tristan Israel no. Motion does not carry.**
- **Amendment to review main motion by legal counsel and also have Martina to obtain written confirmation from three abutting restaurants expressing their uninterest. Leon Brathwaite seconded the amendment for discussion. So voted. Christine Todd no, Keith Chatinover no, Leon Bretheiwe yes, John Cahill no, and Tristan Israel no. Motion does not carry.**
- **Main motion to issue a provisional approval to Alchemy pending legal counsel. So voted. Brathwaite yes, Keith Chatinover yes, Christine Todd aye, John Cahill yes, and Tristan Israel yes. Motion carries. Provisional document to follow.**

#### Citation for Marc Hanover

- Martina Thornton entered into record the Citation received from the Commonwealth of Massachusetts House of Representatives for the long-standing commitment of Mark Hanover. This achievement highlighted his 15 years as Steamship Governors Board Chairman. Martina will submit the Citation announcement to the local press expressing congratulations and the blessings of the Dukes County Commissioners. Martina Thornton and Christine Todd suggested framing the Citation. **Leon made a motion for the creation of a plaque. Christine Todd seconded the motion. So voted. Christine Todd aye, Keith Chatinover sure, Leon Brathwaite yes, John Cahill yes, and Tristan Israel aye. Motion carried.**

#### FY2021 Budget

- Martina Thornton stated that after reviewing the budget and transfers there were 261 days on the payroll (one missed day has since been counted in the general budget). Even with those revisions there is still a balanced budget. She further mentioned that at the County Advisory Board (CAB) Oak Bluffs postponed the Warrant Article. If a vote to edit the budget goes through it will get pushed to a meeting between CAB's on Friday at 12:30 PM. She reminded everyone that budget can be left alone and amended later in the year. Surplus was \$2,608, which is now \$594. Leon Brathwaite added that since the difference is ~\$2,000 it is within the number that was originally going to be requested for revenue and therefore moot point.

- **Christine Todd made a motion to do nothing, move forward and revisit the budget later in the year. Keith seconded the motion. Tristan Israel moved to vote. So voted. Keith Chatinover aye, Christine Todd aye, John Cahill aye, Leon Brathwaite aye, Tristan Israel aye. Motion carried.**

#### New Business

- T. George Davis expressed concern about Trial Courthouse rent status. He said that he would like protection. Kelsie added that County and State could be added into the insurance.
- T. George Davis, Clerk of the Courts – The Courthouse is open to the public limitedly as of Monday, July 13, 2020. The swearing in of commissioner process is subject to change. There must be two people to witness the process who are certified by the Secretary of the State. Leon suggested contacting off island people to come in as witnesses to assist with the 40+ backlog. T. George Davis agreed that if someone certified was found to help, the swear ins could begin in person pending paperwork. Tristan Israel asked Martina to verify that a Town Clerk could be used in a witness capacity.

#### Other

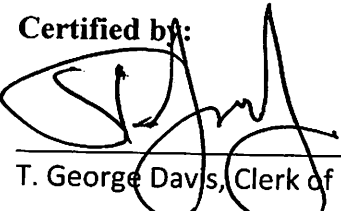
- Tristan Israel said that he silently attended the Airport Finance Committee meeting to explain the overhead issue and send it to the FAA. If approved, it will get sent back to the Finance Committee for a vote and recommendation. Allocation of overhead will be up for discussion at the next Dukes County Commissioners meeting.
- Steamship Authority is having a couple of study commissions and asking for appointments to two committees. **Tristan Israel said that he would like to appoint Leon Brathwaite and John Cahill as Long Range Taskforce Chairmen and Christine Todd as backup/utility person.** John Cahill mentioned that he appreciates the appointment, but that if he feels he can't help/it is redundant that he may bow out of the position. Martina said that she would speak to Davis at the Steamship Authority regarding the possible need of a blessing from T. George Davis.

#### Adjournment

**Leon Brathwaite moved to adjourn the meeting. So voted. All in favor. Motion carries. The DCC meeting was adjourned at 5:51 PM.**

The next Dukes County Commissioners meeting is on Wednesday, July 1, 2020 at 4:30 PM.

**Certified by:**

  
T. George Davis, Clerk of Courts