

**Board of Selectmen
Public Forum
April 6, 2022**

Present: Richard C. Edwards, Chair; Mark P. Duffy; Kenneth G. Fifield (joined the session in progress); Dino A. Scala, Town Administrator; and Toni Bodah, Secretary.

Those also present included: Police Chief Michael Fenton; Max Gehring, Clearview Community TV; Natalie Kelley; Jon Balanoff, AWWA; Donna Ackerman; Connie Twombly; Dennis Badman; Paul & Ann Romano; Andrea Costello; Robert Baxter; Mary Ann Thurston; Ron Kratt; as well as others in the audience and on Zoom. Mr. Edwards opened the session at 5 p.m. and led all present in the Pledge of Allegiance.

Mr. Edwards referred to the recent Town vote regarding the restriction on fireworks. He stressed that it is not, and never has been, the intent of the Board to change the decision of the voters. This issue came as a petition from the public; therefore, we are trying to see whether there is anything that can be done to assist those 400+ voters who support the article. Mr. Edwards stated that he doesn't understand why one cannot make a phone call rather than debating the issue on the Internet. The Board is always willing to speak to anyone. He personally has nothing against fireworks, but they should not be allowed to be lit anytime, which would have been the result had this warrant article passed. If we can regulate the process, we might be able to hold more people accountable. We will never stop all people from setting off fireworks; and presently there is no accountability. The Board is searching for a compromise. This evening's forum is merely an opportunity for the Board to listen.

Mr. Fifield referred to his speaking against the relevant warrant article at Deliberative Session, as he did not want to change the makeup of the Town's handling of fireworks. The article would have allowed for fireworks to occur any place, any time, by anybody, which is vastly different than what is being discussed this evening. Since a number of people were in favor of allowing fireworks any time/place, perhaps we should consider allowing a limited number of people to obtain permits during the week of July 4th. If a permit were required, we could have more control, considering factors such as weather conditions, etc. He stressed that the Board is merely listening, as was done last year when an unpopular suggestion was made to relocate a Town road. Mr. Fifield reiterated that we are not discussing what the Town voted on—fireworks any time/place by anybody. Rather we are only talking about limited permits for the week of July 4th.

Town Counsel has advised that the Town can amend this law—by vote of the public or by vote of the Board of Selectmen. Mr. Fifield personally feels no need to 'fix' anything; he is just trying to listen to the public. The Town is not looking for revenue and is not looking to issue permits for friends. Permitting would be the responsibility of the Fire Department. The Board is mostly just listening and open for discussion. When people talk, they come together.

Mr. Duffy stressed that no change will be made regarding the vote taken—No Means No—and the Board should stick with that. However, another petition on this subject could be forthcoming next year. He personally did not want to change the existing process. Many fireworks are set off during the summer. Fireworks are dangerous and should be controlled. Let professionals obtain permits, as they currently do.

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Mr. Romano noted that the State Fire Marshal issues permits to professionals. However, many do not know/care that fireworks are prohibited. He hears fireworks near his home all year—any time of day/night. If people could use common sense, things would work a lot better. He believes many people doing this are renters rather than residents. There should be an expectation of reasonableness. Mr. Romano believes it would be difficult to enforce, even if permits were issued.

Mr. Fifield suggested that having a limited number of permits would assist the Police in identifying allowed displays when complaints come in, with all other displays being unlawful. The permit would also have a time limit and would attribute clean-up/liability to the permit holder. Mr. Edwards agreed that many people would still not follow the rule; however, perhaps that number might be reduced, which would allow law enforcement to identify abusers.

Mr. Balanoff, representing AWWA, is present to address the environmental aspects of the situation. He shared a fact sheet from DES regarding impacts of fireworks. Fireworks release chemicals and heavy metals that adversely affect the health of humans and animals. Debris is an environmental issue and contains those same chemicals, which can cause additional erosion and disturb habitats, vegetation, etc.

Mr. Fifield noted that, assuming during July 4th week there are 60 households using fireworks, if the permitting process were to bring that number down to 4, it would be helpful to the lakes. He agreed that fireworks are definitely harmful to the water. Perhaps we should reconsider the professional displays over the lakes.

Ms. Kelley noted that those currently setting off fireworks are breaking the law. The likelihood of them getting a permit is low. If liability falls on the permit holder, who pays when the permit holder cannot do so? Mr. Fifield cited this scenario: For years they tried to enforce the 35 mph speed limit between the Poor Peoples Pub and the Irving station. It was an unrealistic speed limit to enforce. The State increased the speed limit to 45 mph, which is now considered to be a safe speed limit and can be enforced much more easily. The actual overall speed travel was decreased by increasing the speed limit, allowing the Police to enforce a more realistic speed limit. Once it is a law, it is more realistic and more easily enforced. In addition, in order to obtain a permit, one must confirm adequate insurance. Otherwise, no permit will be issued. It would be difficult to enforce removing debris from the lake, but one should be obligated to do so.

Ms. Ackerman thanked the Board for allowing this opportunity for discussion, noting it is good to look at possible solutions. She referred to the democratic process and questioned whether the Board has the authority to tweak the results of the vote. In addition, can it then go back to the voters as a referendum? Mr. Fifield agreed that the people clearly spoke, with the majority supporting the status quo. He personally did not support the petition. A private individual can submit a petition with the appropriate number of qualified signatures, and then the Board must determine whether it is constitutional on its face. Part of the subject petition was not constitutional—it cannot preclude the Board of Selectmen from ever prohibiting fireworks again. Therefore, the article was amended. The prohibition can be changed by the voter. They tried this year, but lost. The Board of Selectmen can also change the prohibition. The Board is attempting to listen to concerns in order to find a solution and be better able to direct a petitioner should the subject come back again.

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Perhaps there is a compromise that would be more attractive to all. Mr. Edwards stressed that any change would go back to the public (next year), rather than just be changed by the Board of Selectmen. Mr. Duffy noted that the petition warrant article was advisory. The Board could change the process, although he has no intention of doing so. Mr. Scala clarified that there are 2 ways to ban fireworks: by vote of the governing body or by vote of the people. In May 1988, the Board of Selectmen voted 2-1 to ban fireworks. According to Town Counsel, any change must be made in the same way—in this case, by the governing body. Mr. Duffy stated he personally would not have supported fireworks any time/place by anybody—we must be responsible.

Ms. Ackerman noted it is difficult to find a balance, adding she appreciates the Board listening. She questioned whether we must now wait until next spring, or can we have a referendum prior to July 1. Mr. Fifield stressed we will do nothing this year. The Board could present a warrant article next year, or a petition could come in again. We likely have not seen the last of this; therefore, we are trying to conduct discussions to develop a compromise. This is a difficult town to allow fireworks given our many lakes and infrastructure.

Ms. Blanner (via Zoom) stated that private fireworks are actually not private as they affect neighbors, causing debris on neighboring property. Perhaps it would be better to have more (but limited) public displays. She referred to being woken up in the middle of the night due to fireworks.

Ms. Costello hears fireworks all the time, even in winter. There are lists of NH towns that do allow fireworks—Wakefield is in the minority. However, we have many rentals and she does not believe this is being addressed. How do other towns with many short-term rentals handle this situation? She added that it is likely many people come here without knowing fireworks are not allowed, and will not be aware that permits may be required. Mr. Fifield noted it is not likely that permitting would eliminate all short-term renters using fireworks. He referred to a private display that caused a fire and loss of property to a neighbor. That property owner was held financially responsible and was charged criminally. If a permit had been required, said property would not likely have been approved in any case. Should we tighten up the existing fireworks regulation or is it ok? Or should it be looser? Ms. Costello was advised that there is no regulation for short-term renters that may be held liable.

Ms. Thurston questioned how one would decipher the illegal fireworks from the permitted displays. Mr. Fifield explained it would be similar to fire permits. All permits would be logged in with dispatch. When a fire is seen from the fire tower, it can be identified as permitted. If it cannot be identified as permitted, emergency vehicles are called out. Ms. Thurston noted it would be difficult to decipher the exact location and, therefore, difficult to determine whether it has been permitted. Chief Fenton agreed it can be difficult, unless the responders see it when they arrive on scene. He confirmed that many complaints actually come from neighbors.

Mr. Baxter shared a list of things to consider: responsible party; liability (department/Town); who is allowed to set off the display (designee); type allowed; deadline for application so it could be publicized on the Town's website; rain date. He noted New Years Eve is a popular time for setting off fireworks. Mr. Fifield noted these are all good points, some of which have already been covered. Letting the public know where permitted displays will occur would be helpful. Only Class C fireworks would be permitted.

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Ms. Twombly noted that good information has been presented this evening. She questioned whether the Board is planning to do anything about this this year. Mr. Edwards stressed the Board is just listening to the people but will not do anything this year. We may be ready to assist the next petitioner. The Board is not here to make any decision tonight. Mr. Fifield stressed the Board would like to be proactive before we get to the voting booth next year. Any change will require a long process.

Ms. Romano stated that a requirement for permits will not keep those already using fireworks illegally from continuing to do so. Mr. Edwards suggested calling the police department. Mr. Fifield stated that Chief Fenton wants to know how people feel and whether enforcement should continue as is, or more strictly. He is present and taking notice and may adjust his policy accordingly.

Mr. Badman stated the assumption that requiring permits will reduce the number of displays is not correct. Out of town renters here for a week's vacation will not pay attention to that regulation. He lives next to a rental property and has tried to discuss the situation; however, there are times when he personally feels frightened. Whenever he has contacted the Wakefield PD, the response has been tremendous. Mr. Badman believes we are opening the door with the permitting process, which will have unintended consequences. Mr. Fifield drew a correlation between having a prescription for OxyContin to requiring a permit for fireworks. Mr. Badman stressed that currently we know anyone displaying fireworks is breaking the law because no permits are issued. We should be tightening restrictions, not opening a door. He noted that no one present this evening is in support of allowing fireworks.

Mr. Edwards suggested the police department may have more time to address illegal fireworks if they don't have to respond to those with a permit. Mr. Badman disagreed. Mr. Fifield wondered at no one in support of allowing fireworks coming out this evening, adding that those who took the time to come out and engage are in favor of leaving the process as is. Mr. Duffy expressed concern at the Town/Board becoming personally liable if permits are issued. He stressed that many valid points were made this evening and expressed his appreciation to the people present.

Mr. Edwards noted that as this is discussed further, the lack of participation from those who support fireworks will be taken into consideration. He cautioned that some public displays, which are significant fundraisers for various organizations, may need to be cancelled. Mr. Romano questioned why the Board would cancel State approved displays by licensed operators. Mr. Fifield noted that Mr. Romano is correct and that the Board is only considering private displays. Nothing will change for professionals using Class B and above materials. We should take the pollution issue into account, although we cannot change State law.

Mr. Kratt noted that Pine River Pond has a display once a year. He believes that permitting private displays will put more strain on the police department. He personally would rather see the police concentrate on more important issues.

Mr. Edwards moved to adjourn at 6:22 p.m. Mr. Duffy seconded the motion, which passed 3-0.

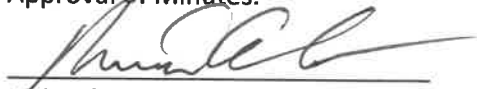
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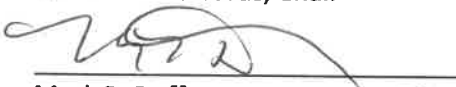
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Respectfully submitted,
Toni Bodah, Secretary

Approval of Minutes:



Richard C. Edwards, Chair



Mark P. Duffy



Kenneth G. Fifield