

~~Unapproved~~ **APPROVED**  
**Candia's Selectmen's Work Session Minutes**  
**August 30<sup>th</sup>, 2018**

**Attendance:** Chairman Susan Young, Vice-Chair Carleton Robie, Selectman Boyd Chivers, Selectman Russ Dann, Selectman Scott Komisarek, and Administrative Assistant Andria Hansen. **Also in attendance:** Building Inspector Dave Murray, Chief McGillen and Fire Chief Young.

**2:00 p.m.** Chair Young called the work session to order and immediately followed with the Pledge of Allegiance.

Chair Young said she was going to say something at the beginning of this meeting and she wants it noted. This is a public work session and there will be no public input. Fire Chief Young, Chief McGillen, and Building Inspector Murray can speak if they have a question or something to add. The public was noticed and she didn't believe the abutters were called. She asked the Board if that was correct. Building Inspector Murray noted that the property owner was called. It was noted that Josh Pouliot owner of The Hive was present. Selectman Komisarek asked if they could keep the meeting to 30 minutes because he has to be somewhere. Chair Young believed they all reviewed the material ahead of time. They are here to decide on what to do. She asked if there were any questions. They have proof that there was a certified letter mailed two weeks ago on Monday. There was another copy hand delivered for the cease and desist. Selectman Robie thought that Building Inspector Murray should explain the case as orchestrated from when it began. He thought Building Inspector Murray should inform the Board of what has transpired here. Building Inspector Murray said this was about 62 Patten Hill Road also known as The Hive. The property owner started out having parties in the backyard which we all do, but from there it has escalated a lot. They have ticket sales going on and camping sites, 12 or 14 bands carrying on until the early morning hours. He started getting complaints from the abutters and neighbors. He had it investigated and there is a website out there, The Hive in Candia. It pretty much spells out what they do. It is a music festival. They have it twice a month. There are arts and crafts and things like that for the kids during the day. Then it gets to be more of an adult thing at night. At that point with the ticket sales going on and the camp sites now they are running a business in a residential district. So at that point he had to put together the cease and desist and he mailed it out on the 20<sup>th</sup>. He still didn't think the property owner has received that by mail. They can thank the US Postal Service for that, so he hand delivered one on Monday. The biggest problem is he already has a good sized festival organized for this weekend. There is no way he's going to have time to pull the plug on that. He's going to have guests and a dozen bands. He has another one scheduled for September 21<sup>st</sup> which is supposedly the last one of the year. He's got sufficient time there to cancel that one if that is what they really want to do. This one here is going to happen and there is no way they can stop that. He is alright with that, it's a music festival. It's not life and death it's just a little noise. People are not happy about that and the fact that he is running the business in a residential. They are going to have to deal with that as it comes. He didn't want to use the word suggest, but he would suggest that they let this happen this weekend because there is no stopping it. There are really no repercussions and it's not life or death. He is going to have to come to the Board and eventually the ZBA. They definitely want to be cancelling the next act on September 21<sup>st</sup>. This is where he's at right now.

Selectman Dann asked how many days was this going to be running this weekend. Building Inspector Murray said they are going to start up on Friday night, Saturday, and Sunday. Chair Young clarified they start coming in on Thursday night. Selectman Dann asked what they do for water and lavatory facilities. Building Inspector Murray said they have 10 port-a-potties set up on site for all of these festivities. Every time they have an event they bring in fresh ones. The water is from the building itself. Selectman Dann said he is looking at the information and on July 3<sup>rd</sup> they had 4,250 guests. Building Inspector Murray said that doesn't happen. Selectman Dann said it looks like what they are claiming to have. Building Inspector Murray said he didn't know where those numbers come from. The police have been watching them the last couple of parties. They've been keeping an eye on the place when things have been going on. The capacity was nowhere near that. Chair Young said when she last looked at it 321 people were going and 700 are interested. Selectman Dann said that was July 3<sup>rd</sup>. Chair Young said they might be followers she wasn't sure if they attended. Building Inspector Murray said there could be 4,000 interested. He was sure it was 400 to 500 people going. Selectman Chivers said he started on this Board in 2014 and Selectman Robie laid out a pretty good goal for us which was stay out of the news. That advice was good then and it is good now. If they go out there and try to prevent that concert this weekend, this town is going to be in the news. They will have 300 or 400 people that can't get in there and they'll have to call Lieutenant Gallagher and Chief McGillen to keep them out that's not going to go down well. Building Inspector Murray said it would be a large magnitude. Selectman Chivers said they would have a bunch of angry people there who aren't going to take that. Building Inspector Murray said what do they gain from that. There is no gain. Selectman Chivers said some of these zoning take a little longer than 10 days to incubate. He got the cease and desist order 10 days ago and this is the 30<sup>th</sup> of August. There isn't much time to cure this thing. Building Inspector Murray said something of that magnitude has been in the works for a year he's been planning these events. Selectman Chivers said they have Mr. Pouliot here. Chair Young stated no discussion from the public that was clear. Selectman Chivers said if they had a commitment from him that the concert in September would be cancelled and they would see evidence of that on the internet then he thought they could all be satisfied. To stand in front of this freight train that is coming at us on Friday afternoon is not advisable. Building Inspector Murray said people have to understand that he has to pull all of this information together he just can't run willy nilly. Chair Young said in all honesty she went through the liaison for the code enforcement. This was her mistake; she should have gone directly to Dave. This did not start yesterday. Selectman Chivers asked when it started. Building Inspector Murray said the letter went out on the 20<sup>th</sup>. Chair Young clarified that the people didn't start complaining yesterday. They did not start complaining yesterday or a week ago or even when they did the cease and desist. Her position is that she represents all of the people in the town of Candia. The people who have complained, she knows when she took action it was August 16<sup>th</sup> when she finally put something in writing to you. This was awhile ago and it wasn't addressed and she had to follow up again because someone else had complained about it. She did not in any way, shape, or form know the owner of the property, don't have anything against him or her or even what is going on. But she does represent off of the residents in Candia. She thought what they had to keep in mind what they had for information. Her recommendation and she'll try to get this into a motion, but simply refer the matter to the town attorney for enforcement. Selectman Chivers said he spoke with the town attorney about that and he gave me a check list of information they need and a timetable. So he had the Land Use Office send that information out. He asked if she was talking about an injunction. Chair Young

said she is not talking about anything she is not a lawyer and they have a town lawyer this is what she is recommending. They can cut this meeting short right now and simply decide to refer the matter to the town attorney for enforcement. He will decide what to do. This can be our motion right now. They have satisfied all of the residents that are complaining they've done their due diligence it would be in his hands. Selectman Chivers clarified that Chair Young referred this matter to the Land Use Office on August 16<sup>th</sup>. Chair Young said to you. Selectman Chivers said that was a Thursday. Chair Young said August 17<sup>th</sup>. Selectman Chivers said that's a Friday and the cease and desist order went out on a Friday. You really can't do it much faster than that. He noted Dave is not in the office in the afternoon. He immediately replied after getting that information from him and Dave sent out that cease and desist order. Chair Young said she was not blaming Building Inspector Murray for anything. Selectman Dann said they shouldn't be blaming, what is it that they want to do this is what they should be doing here. Building Inspector Murray wanted to clarify that he has been working on this for awhile before you two were interacting. He has been talking to the police department about this and it takes awhile to compile of this information to be accurate before he orders a cease and desist. He has been here before and you can't just do this willy nilly. Selectman Chivers said for Bart to take this now would require him to do a lot of work that Dave is also supposed to be doing. They have to get this thing to district court. Chair Young said if she chooses to make this motion it will simply say refer the matter to the town attorney for enforcement. She is not going to tell him how to do his job when to do his job. This is what it would say simply that and she would feel good representing the whole town of Candia. She thought it would be fair to the property owner because again from what she has seen since the property owner hasn't gotten the cease and desist in his hand he has added things. Selectman Chivers asked like what, do you mean people. Chair Young said he could go on the web just as quickly as she can. Selectman Chivers said he can't continue to sell tickets he would assume they are continuing to sell tickets. Chair Young asked Selectman Chivers if he would. Selectman Chivers said he didn't know if they can stop that. He doesn't know how that whole thing works with a third party that sells your tickets for you and they take a commission. He didn't know how reliable that information is. Selectman Komisarek said he is trying to serve the community the best he can like she is saying. What he is hearing from Dave and the Board in their estimation and he is Land Use and Boyd is the liaison, they are saying the best thing right now for our community because the liability and risk is very low they are saying let's not do it. He understood what she was saying they can't allow people not to comply. He thought that was understood. He would like to know what Selectman Robie has to say about this. Selectman Robie said he is going to stick with his gut decision here. He felt Building Inspector Murray's recommendation is the route they have to take. They will heed to the cease and desist and he thought the cease and desist should've had a stipulation in it that if this continues there would be some type of fine. An attorney would have to write in to a cease and desist that they were doing that. He thought the point has been taken by everyone that the activities at The Hive have to come to an end. He thought it was very clean within the community and the people involved. If Dave Murray made a decision that 300 or 400 people are going to gather on Patten Hill Road once again for one more weekend he didn't see a problem with that. If he wanted to have 300 or 400 people at his house up on High Street, if he charged them or didn't charge them he is going to have them. Until someone tells him he can't enforceable this is how he is going to do that. They all sit there and think they should do what they want with their own land and when zoning comes into effect for people it is serious. It affects their lives and how they think and they all think a little bit different sometimes, but they

all say they want to do what they want to do with our own property. Sometimes we can't and sometimes it is a hard lesson to learn that. He's had that experience himself and they are experiencing that with numerous things in our community right now. Not just this and it is tough for people. He noted that Dave made his recommendation and he didn't see anything too out of the ordinary here. Building Inspector Murray thought they had a pretty good handle on this. Chair Young said she didn't think referring it to the town attorney for enforcement means that. Building Inspector Murray thought he was going to be compliant on his own after this one. Selectman Robie said he didn't think they needed to spend much more money on the attorney, but by the looks of the emails and the conversations back and forth to our attorney and the amount of time spent. If it doesn't work out and he doesn't take down his postings for the next festival and come Tuesday morning if it is not off of the website they will address how they want to pursue that and institute some type of fine system. If it happens again there is going to be consequences. Other than that you can't send down the National Guard, it is not a good move. Chair Young said she didn't think anyone wants that. Selectman Chivers thought Mr. Pouliot having heard all of this should be convinced by now that the concert that is going to occur in September is in his peril. If that thing doesn't come off of the website this weekend to show it has been cancelled then he thought they do start enforcing this immediately. Chair Young didn't think he understood the property owner has been given a cease and desist. She wanted to add something right now, the abutters or the neighbors were not called about his meeting. She believed he instructed the secretary to call the homeowner about this meeting. Did you instruct the secretary to specifically call the owner? Selectman Chivers said he did. Chair Young asked if he instructed her to call all of the abutters or people that had complaints. Selectman Chivers said Mr. Pouliot is a party to this whole thing. He thought it would have been important to hear what his position is with respect to the September concert and he still felt it was important. Chair Young said not at this meeting. There was no public input. Selectman Chivers said he didn't know there was no public input with the principal in this whole thing. Building Inspector Murray noted he's not giving any. Chair Young said that is not the point. Building Inspector Murray said he is the one with the cease and desist. Selectman Chivers said he is the principal in this thing and he ought to be at the table speaking on his behalf. Chair Young said not at this meeting. He will have an opportunity because there will be a hearing and the people will be notified. What happened there was very backdoor. Selectman Dann said they are getting off topic. Selectman Komisarek said they need to stay cordial. Chair Young said he has been given a cease and desist. Selectman Dann said with this situation he is going to side with Boyd and Dave. They are going to create a bee's nest and he doesn't want this to get into the news paper and what have you. He can go to the neighbors and say this had been planned and there will be no more functions like this unless the town goes through all of the paraphernalia to make it legal. So get it done and make it legal. It has grown out of hand and it has to stop. Building Inspector Murray thought Mr. Pouliot is going to want to continue with these activities later on after they get through this. He'll have to come to the ZBA, apply for zoning variances and whatnot. Chair Young said knowing that he has a cease and desist that he is not obeying, what does the Board want to do about referring it to the town attorney to get back the fines. She said it doesn't have to be today it can be on Monday if they want. Selectman Dann said he would like them to agree that nothing after this weekend can be held there and we would then let the attorney know what our opinion was that he was aware of it and if he has to be called in at a later time he has this information at that point. He talked to some people who have this situation and if you stop them they'll be people up in arms and there is no way of stopping them. Chair Young said what

makes you think that the attorney would enforce this tomorrow or prior. Selectman Komisarek said he wouldn't. Chair Young asked why can't they turn it over to the attorney for enforcement on Tuesday. Building Inspector Murray said he didn't see the need. Selectman Komisarek said what everybody is saying is if they give them a chance to comply take it off of the website. It is the lowest cost to the town and everyone feels confident that it will come to a peaceful resolution but they are ready to escalate if things start to break down. It is going to be monitored and Dave is going to be in contact. They are going to monitor it closely. Chair Young asked someone to make a motion, because she has to get out of here too. They have to act on this. They have a cease and desist and it hasn't been acted on. They need to vote on this and they will have a public hearing where everybody can come and tell you how they think. Selectman Komisarek asked if this was a public meeting. Chair Young said this is a public meeting with no public input. It was noted that this is a work session with no public input. Selectman Komisarek said with no notice. Chair Young said it was noticed properly. No one was called specifically for it. Selectman Robie said he didn't believe any voting could take place at a work session. There shouldn't be any motions or votes being taken. Chair Young said there could and she is going by legal advice. Selectman Robie didn't think they needed to vote on anything. The Building Inspector made a commitment with the gentleman on what was going to transpire. Selectman Komisarek said they can make a motion on that. They could say they heard what Building Inspector Murray had to say and what Boyd had to say and the rest of the Board is in agreement with the policies they have taken and they implicitly had an oral agreement with Mr. Pouliot that they should enforce and they made an agreement and he is going to have this one. If they want to make that motion it's fine. Selectman Komisarek said his motion is what the Building Inspector said what happened, they heard Selectman Chivers point of view and they are all kind of in agreement. They are going to wait on the attorney and they are going to give chance for compliment and hopefully he'll comply. Selectman Dann said the cease and desist order will go in Monday morning. Chair Young and Building Inspector Murray noted it is in effect. *Selectman Chivers motioned that the move as previously planned and the concert will occur this weekend with the stipulation there will not be one in September and if they don't see any evidence on the website that the concert has been cancelled then they refer the case to Bart for enforcement. Seconded by Selectman Komisarek.* Chair Young noted that Selectman Chivers said specifically concert, but all of the other activities can take place. Selectman Chivers said if he is in violation of any element of the Zoning Ordinance. Chair Young said he better be specific here. Selectman Komisarek said he can still have his bee hive instruction there. They have the agricultural statute. Building Inspector Murray said there is no further violation of our local ordinances. Chair Young said she liked that, no further violation of our local ordinances. Selectman Chivers said also there is a health and sanitation thing. Chair Young asked if you have 300 people is there one port-a-potty for every 50 people. Building Inspector Murray said there is but he doesn't have that number but ten covers it if he had 4,000 than no. Ten is very sufficient. Chair Young asked if the water system and food vendors had to be inspected. Building Inspector Murray said it is not an issue as far as water goes. Chair Young said any food doesn't have to be inspected. Building Inspector Murray said he has a vendor down there and he wonders if he is licensed and it goes on from there. Selectman Robie asked if they should be checking the licenses of the people selling food during Old Home Day. Building Inspector Murray said they did not. Selectman Robie said one quick thing on the cease and desists. He thought if anyone talks to their department heads and the department head thinks he needs a cease and desist, it ought to be known amongst the Board before the cease and desist leave the

office. Sometimes there may be a different view on how to approach something because he is all set with staying out of the news. He likes it that way. They way they have been going the past couple of three weeks they are going to get in the news. Chair Young said they had a cease and desist that they enforced. Chair Young said they have to be fair, if you enforce then you enforce. She asked if Mr. Pouliot needed a copy of all of the ordinances. He is on the Planning Board so he should probably know. Chair Young called for a vote. *Selectman Robie, Selectman Chivers, Selectman Komisarek, Selectman Dann were in favor and Chair Young was opposed. Motion carried on a vote of 4 to 1 (4-1-0).* Fire Chief Young said the Board is going to allow him to do this which Board wants their name on the website so the irate citizens can call their number at 3:00 pm or 4:00 pm in the morning when the music is too loud. He wanted to know which one of the Selectmen wants that call. Selectman Robie said he would take it. He felt it didn't look good for the Selectmen to say this is okay. Selectman Robie said they didn't say it was okay, they backed up Mr. Murray. Fire Chief Young clarified that the Selectmen are saying this can happen this one time. Selectman Komisarek said they've heard from Dave and as a Board member who is trying to do the best for the community; they have two people saying if they do it there is going to be consequences. He has to respect Dave and Boyd and that position even though everybody knows this can't go on anymore. He's right there is a risk, you have to be like a police department and you have to enforce things and be rigorous. If Dave and Boyd were sitting here as liaisons and said I need you to vote today and shut it down, he has to respect their point of view. They are going to stay vigilant on compliance. Chair Young thought fair is her thing because they enforced on but are not enforcing another. She does stand up for the other people that aren't here; they will have an opportunity to voice it. They aren't here today to talk with the Board or look at the Board and say this is what happened on my property. They are not here to face you they will be because we will bring this up at a public meeting. Then the Board can defend their actions and she will defend hers. Again she doesn't know this gentleman and doesn't have anything against him. She just knows that they enforced the cease and desist and a guy lost thousands of dollars. Selectman Komisarek said then you want to shut this down. Chair Young said she wanted this to go to legal. Selectman Komisarek said you aren't in favor of shutting it down either. Chair Young said she didn't care one way or the other. She is in favor of referring the matter to the town attorney for enforcement. She believed that would include fines, attorney's fees and injunction relief. There is a consequence for receiving this in your hand and continuing the behavior and adding to it since you received it. She noted this wouldn't get done until Tuesday. There would be a consequence probably financial. To her that would be fair. Selectman Komisarek said he agreed with that. He asked if she wanted to make an amendment. Selectman Robie said they already had a vote. Chief McGillen noted they have not received any noise complaints at the police department and he expected they probably will if this keeps up. What they do is use a state law which is disorderly conduct and they talk with the property owner. They don't do down there like the Gestapo and they talk with the owner and tell him he has to tone it down. He knows it can be difficult with bands but they would have to tone it down if the police department received any complaints on it. They would do that with anybody. Hopefully they would abide by it. Selectman Robie asked if he's had any recent complaints. Chief McGillen he hasn't had any noise complaints. Chair Young said there is a big fair of retribution and not from the property owner, she didn't know who. Selectman Komisarek said people like to remain anonymous sometimes. Chair Young said they have a legal right to. Selectman Dann said if there is a noise complaint it should be referred to the police department. If they call him he is going to tell them to report it to the police department.

Selectman Chivers asked if the person that is calling Chair Young ever identified herself. Chair Young said she doesn't want to because she is afraid. She asked the Board if they wanted to take another motion. Selectman Robie said they already discussed this. Selectman Komisarek said they can amend the motion. Come up with a new motion he thought they were all in agreement here. Selectman Chivers noted that if they concert didn't come off of the website next week it would be sent to Bart for enforcement. Selectman Dann said that would be the next step anyhow. Chair Young said then there is going to be no consequence for the cease and desist this time. Selectman Robie wanted to get clarification about the public input they are going to have about this. The next step for this gentleman is to go to the ZBA. He didn't believe it should ever come back to the Selectmen. Selectman Dann thought what Sue was saying there are neighbors that might come to the Board. Chair Young said she is looking at these complaints that have been given to us in our packet. She is hearing starting to tonight that this festival is still going on. They have written complaints and oral complaints and tonight it is still going on. Selectman Chivers asked what she recommended they do so it doesn't go on. Chair Young said she didn't mind it going on, but she thought the attorney will handle. Selectman Dann left the meeting at 2:34 pm. Building Inspector Murray said if there are any complaints, please refer them to me. He's sure he can explain it very well to them and they'll be satisfied. Selectman Komisarek said he talked with some of the residents that are around there. The indication is that Josh goes around and lets them know what is going on. If it bothers them he is willing to put them up somewhere. He thought the people are pretty well notified. Its one night that they don't get peace and quiet, but someone has the right to sleep at 2:00 am. Chair Young said midnight sounds reasonable to her, but maybe not. Selectman Komisarek said hopefully everything goes off without incident. If not they are going to hear about it.

Selectman Komisarek moved to adjourn at 2:36 pm. Seconded by Selectman Robie. Motion carried. All were in favor.