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**MINUTES
SELECTMEN'S MEETING
TOWN HALL
MONDAY, JANUARY 9, 2023
6:00 P.M. - REGULAR MEETING
REMOTE PARTICIPATION OPTIONAL**

SELECTMEN PARTICIPATING: Michael MacAskill, Larry Ballantine, Julie Kavanagh & Mary Anderson

ALSO PARTICIPATING: Joseph F. Powers

CALL TO ORDER

Mr. MacAskill called the meeting to order at 6:00 p.m.

PUBLIC COMMENTS/ANNOUNCEMENTS

Richard Waystack was present and invited everyone to attend a Harwich Housing Huddle that will be held on February 1, 2023 at 8:30 a.m. at the 204 Sisson Road library. This huddle will be a follow up to a very successful housing summit that was held last month in Hyannis and will be a talk about education and training for housing advocates in our community. The huddle will help train people to speak at meetings to help them participate in discussions that are being made about housing in our community. Matt Pitta will be MC'ing the event and all are welcome. Invitations will also be sent to the Harwich Housing Trust, Harwich Housing Committee and Harwich Housing Authority.

A. Committee Vacancies

Ms. Anderson read the list of existing committee vacancies and reminded everyone that they can submit an application to be on a committee, even if there is not a current vacancy.

CONSENT AGENDA

A. Vote to approve Board of Selectmen meeting minutes from December 19, 2022

Mr. Ballantine noted a correction needed on page 4 under the MDAR discussion. Mr. Powers noted the change.

Ms. Anderson moved to approve the Board of Selectmen meeting minutes from December 19, 2022 as amended, 2nd by Ms. Kavanagh and approved 4-0-0.

NEW BUSINESS

A. Discussion on Free Cash certification and financial status

Finance Director Ann Marie Ellis was present. Mr. Powers stated that we have already begun the process for FY24, noting that Annual Town Meeting is 112 days away. There has been considerable

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interest in free cash, given the eye popping numbers that we have received. Harwich is not alone in seeing large free cash number. Ms. Ellis walked the Board through the history of free cash and information on how it has been calculated. She shared a chart of free cash from FY13 through FY22. From FY19 down to FY20, we reduced free cash by \$2,045,959, which was the beginning of COVID. In FY21, certified free cash came in at \$6,302,989 which was a large jump, again seeing the impacts of COVID and the economy. In FY22, certified free cash came back at \$7,488,155. Ms. Ellis wanted to provide that information so people can see how the numbers ebb and flow and that it is due to the general economy. Ms. Ellis provided reports of actual receipts versus historical receipts from the tax recap as well as information on the undesignated fund balance and how we get to free cash. To get to free cash, the Department of Revenue makes additional adjustments by taking out personal property tax receivables, real estate tax receivables, general fund tax liens and deferred real and personal properties. Then we deduct some shortages that we had and were recorded in FY22. This is how we arrived at the \$7,488,155 free cash number. The FEMA money that hit the reduction to free cash in the amount of \$184,000 was because the receipts were posted to the wrong federal grant and they will be corrected in FY23.

Ms. Kavanagh commented that the information provided spells out free cash clearly but the main question is where do we go from here.

Ms. Anderson asked Ms. Ellis what she thinks an appropriate level of free cash is. Ms. Ellis responded that Harwich's free cash policy speaks to 10% of the general fund. The auditors, Department of Revenue, Division of Local Services agree that there should be some sort of free cash carried forward and it is up to each individual town as to how they do that. Every town should have some means of cash that they carry over to do projects that they will not have to borrow for. It is a matter of budgeting your receivables and how conservative you want to be on that.

Mr. Ballantine thanked Ms. Ellis for the detailed information and stated that he does not think that free cash is bad and that he supports it to some extent.

Mr. MacAskill noted that we are having more and larger balance transfers at the end of the year. He asked if there is a reason why we wouldn't be looking at more being more aggressive on revenue coming into the transfer station based on what Ms. Ellis is seeing. Ms. Ellis responded that staff can look into it and raise the estimated revenues for next year.

Mr. Powers thanked everyone for their comments and questions. He also agrees that free cash is not a bad thought and thanked Ms. Ellis for the work that she has done not just with free cash, but everything related to the budget. Mr. Powers stated that he did do some work on his end by looking at similar communities to Harwich. He was struck by the fact of how normal we are in Harwich relative to the information that is available from the Division of Local Services. We have not and do not rely upon free cash to prop up the operating budget. Ms. Ellis and Mr. Powers have and will be talking further on suggestions on how to spend down free cash.

Ms. Kavanagh stated that she understands that we cannot use the free cash for the budget, but wondered if it could be used for certain issues in town including housing. She asked if we could take free cash money, separate from the trust, and figure out a way to take properties that we already have, or invest

in properties to create duplexes to create housing. Ms. Kavanagh also asked about possibly using some free cash funds for early childhood education funding. Two of our biggest issues in town are housing and our workers.

Mr. Powers said that Harwich has retained its AAA bond rating even after the pandemic which is no small feat. We have ample sources to either rely upon or go after topics that Ms. Kavanagh talked about. Harwich has done an excellent job in creating special stabilization funds for wastewater and housing and might want to consider a future stabilization fund for capital projects. Harwich has a sound financial picture and free cash is not a bad indicator of bad financial health. For Mr. Powers, as we talk about the budget and projects, we should always be mindful of special revenue sources other than taxing the tax payers.

Ms. Anderson commented that Ms. Kavanagh's ideas are good if they can be worked into the formula. She added that she feels better about our free cash position now that it has been explained.

Richard Waystack was present and advised the Board to be careful on buying something and turning it into a duplex. The least expensive property in Harwich tonight is \$500,000. There are 23 properties on the market in Harwich right now. The Housing Committee and Housing Trust are talking about housing ideas and there are a lot of program options available.

Mr. MacAskill said that the Board was presented with about 5.4 million dollars in capital projects. The bulk of those projects were to be funded by free cash. Then there was a million to go into OPEB and a million to go into stabilization. If approved, we are really only looking at 2 million dollars in free cash. Part of the break that we are giving the tax payers is paying cash for these items and not borrowing. He added that borrowing today is more expensive than borrowing last year. One thing for the Board to consider is the school money that was returned to the town. Mr. Howell had stated that he was interested in giving that money back to the tax payers, which would be about \$62.00 returned to each tax payer. The capital plan is coming back to the Board next week for a vote, but the Board should consider Mr. Howell's suggestion if they want to go that direction. Mr. MacAskill asked that Mr. Powers provide the information that he and Ms. Ellis presented tonight to be in next week's correspondence.

- B. Approve the temporary closure of Brax Restaurant Management Inc. d/b/a Brax Landing 705 Route 28

Mr. MacAskill stated that the letters from establishments are supposed to request the closure, not notify the Board that they are closing.

Ms. Anderson moved to approve the temporary closure of Brax Restaurant Management, Inc., d/b/a Brax Landing, 705 Route 28, as presented, 2nd by Ms. Kavanagh and approved 4-0-0.

- C. Approve the 2023 Common Victuallers license renewal for Shogun Inc. d/b/a Noble House – 21 Route 28

Ms. Anderson moved to approve the 2023 Common Victuallers license renewal for Shogun, Inc., d/b/a Noble Housing, 21 Route 28, 2nd by Ms. Kavanagh and approved 4-0-0.

- D. Approve the 2023 Class I Auto License renewal for Harwich Port Boat Yard –
4 Harbor Road

Ms. Anderson moved to approve the 2023 Class I Auto License renewal for Harwich Port Boat Yard, 4 Harbor Road, 2nd by Ms. Kavanagh and approved 4-0-0.

- E. Approve the following 2023 new annual license applications for Round Cove Resort Owner LLC d/b/a Wequassett Inn – 2173 Route 28;
1. Common Victuallers
 2. Innholders
 3. Weekday Entertainment
12:00 p.m. to 12:00 a.m. inside & 12:00 p.m. to 10:00 p.m. outside
Live/recorded music, amplification, dancing by patrons & live performers
 4. Sunday Entertainment
12:00 p.m. to 12:00 a.m. inside & 12:00 p.m. to 10:00 p.m. outside
Live/recorded music, amplification, dancing by patrons & live performers

Ms. Anderson moved to approve the 2023 new annual license applications for Round Cove Resort Owner, LLC, d/b/a Wequassett Inn, 2173 Route 28 as listed above, 2nd by Ms. Kavanagh and approved 4-0-0.

OLD BUSINESS

- A. Approve recommended proposal from Heinz Proft, Natural Resources Director, for the Sustainable Fishery Management plan for River Herring Harvest at Herring River, Harwich

Natural Resources Director Heinz Proft was present and summarized the plan that was approved by the state. When Harwich began, we were seeing an increased number of fish. While the town was working with the state on a plan, the herring counts began to decrease. Now that the plan has been approved, we have 5 years to act on it. Seeing the decreased number of herring gives Mr. Proft hesitation on acting on the plan now and he thinks that it would be prudent to hold off for this spring. Opening the run for the taking of herring and then having to expectedly close it may cause an issue. Mr. Proft recommended seeing how many fish come through the electronic fish counter in 2023 and go from there.

Mr. Ballantine would like to go with Mr. Proft's recommendation and asked if any other herring runs in towns are being monitored and seeing these downward trends. Mr. Proft responded that we are not the only town that is seeing a decrease that it is happening all over the Southeast region.

Ms. Anderson stated that based on the decreased numbers, she was not keen on not opening the run because it might present a problem. She did wonder for next year what Mr. Proft might think of doing

a ceremonial day or week for the herring run. Mr. Proft responded that an event like that is certainly in the realm of possibilities.

Ms. Kavanagh appreciated all of the information provided and added that she would rather not do anything at this point either. Another question that she has was what impact a program would have on town services, permitting and enforcement. Mr. Proft responded that back in the late 1990's when herring taking was happening, there were volunteer herring wardens that would oversee the runs during taking times. There would still be responsibility needed after hours and the whole river would need some kind of protection.

Mr. Powers thanked Mr. Proft for his quick turn around on providing information.

B. Vote to amend the Board of Selectmen Remote Participation Policy

Mr. MacAskill stated that this is an old topic that came up once before.

Ms. Anderson commented on # 6 in the policy which reads that board/committee members are allowed to participate remotely up to 3 times in a calendar year and that more than 3 times would require Board of Selectmen approval. Ms. Anderson is not sure that this decision needs to come to the Selectmen and that it should be made by the chair of the committee or board that the person is a member of. Ms. Anderson noted that in speaking with Administration staff, # 2 in the policy might need to be updated. Information should be given to both Channel 18 and the IT Director. Ms. Anderson suggested that Administration staff get the desired language for the policy. 24 hours' notice does not seem like a lot and Ms. Anderson suggested 48 hours' notice unless there is an emergency situation.

Ms. Kavanagh and Mr. Ballantine agreed with Ms. Anderson's suggestions.

Mr. MacAskill asked that Mr. Powers work on those 2 items and advertise for a public hearing. Mr. Powers responded that he would get draft content together and tie that to the public hearing.

C. Update from the Town Administrator on various proposed zoning amendment articles for 2023 Annual Town Meeting

Mr. Powers commented that this is relative to a number of potential zoning bylaw amendments or zoning bylaw adds. When these topics were brought up in the fall of 2022, Mr. Powers met with our primary attorney from KP Law on land matters. Counsel is now working directly with the Director of Planning and Community Development to get material together. There is a process when it comes to zoning board amendments where by the Planning Board needs to be mindful of dates. The Board of Selectmen may have things referred back to them for a hearing. If adopted at Town Meeting, the information would then go to the Town Clerk to make sure that all of the regulatory requirements are separate from content. Mr. Powers stated that he would be meeting with the Director of Planning and Community Development later this week to get a sense of where he is with those and will start getting in front of the board with draft articles. When we talk about zoning amendments, we talk about trying to restructure the ADU bylaw as well as what are referred to as solar panel related devices. Additionally,

another look at density will be had. The list that the Selectmen gave to Mr. Powers in November has been transmitted to counsel and appropriate staff are working on them.

Ms. Anderson commented that at one of the housing webinars she attended, there was talk about some specific zoning that would take a district and make zoning so that you can have a smaller amount of square footage. Mr. Powers responded that topic is what he meant by density.

Ms. Kavanagh hopes that we can at least get the ADU issue cleaned up well and quickly. Mr. Powers responded that Attorney Kwesell from KP Law has a very fast understanding and comfort level on this topic. This is not a topic that Mr. Powers has discussed with the Director of Planning and Community Development but that he may have a similar mind set.

Mr. Ballantine stated that he appreciates the list provided. He asked for clarification on a newspaper article he read that stated that the Governor was trying to move from 75% majority voting for zoning changes to 50%. Mr. Powers responded that it is a very narrow change where by certain criteria and standards have to be met where it is a straight majority vote rather than the 2/3 vote. Mr. Powers stated that he can do more research.

CONTRACTS

- A. Vote to authorize the Chair to execute the Recycling Dividend Program contract between the Commonwealth of Massachusetts Department of Environmental Protection and Town of Harwich – Grant in the amount of \$12,100

Mr. Ballantine moved to authorize the Chair to execute the Recycling Dividend Program contract between the Commonwealth of Massachusetts Department of Environmental Protection and Town of Harwich – Grant in the amount of \$12,100, 2nd by Ms. Kavanagh and approved 4-0-0.

- B. Vote to authorize the Chair to execute the Winter Recovery Assistance Program (WRAP) contract between Massachusetts Department of Transportation and Town of Harwich

Mr. Ballantine moved to authorize the Chair to execute the Winter Recovery Assistance Program (WRAP) contract between Massachusetts Department of Transportation and Town of Harwich, 2nd by Ms. Anderson and approved 4-0-0.

- C. Discussion on details of last season's contract with S.J. Service Inc. for Comfort Station Janitorial Services

In the Board's packet was a copy of the S.J. Service Inc. agreement. The question comes to the available restrooms around town as related to our beaches. This contract expired on October 11, 2022. Within the contract were specifics on performance standards. It talks about the time frame for the 2022 beach season which would start around Memorial Day and run through Columbus Day. If were to expand on any parameters, it would require a new scope of

services, which could potentially cost more. The expansion of services shouldn't be a budget buster.

Ms. Anderson is wondering if the contract could include that the bathrooms be left open later on July 4th. She thinks in the past that they were open until 8:00 p.m. but wondered if an extension could be given until 10:00 p.m. and have Red River Beach cleaned last. Ms. Anderson referenced an article in the Cape Cod Times that referenced Cape Cod being a bathroom dessert, which made her wonder if the bathrooms might need to be open for a longer season, suggesting April 15th through November 1. Maybe not all of the restrooms need that long of a season, but the town could pick and choose which ones might be best served by a longer season, with Ms. Anderson suggesting the bathrooms at the Chamber of Commerce.

Mr. Powers stated that he could go over the contract with staff to modify the scope of services and get it back out into the market place.

Mr. Ballantine would like to get as much feedback as possible from DPW and the Recreation Departments.

Mr. MacAskill commented that this service started with the pandemic and asked what changed with the DPW that we are not doing these services ourselves, asking if it was a staffing issue. Mr. Powers responded that was certainly the case. We have recently had better luck with hiring and this is a conversation that would need to be had with the DPW Director, Recreation Department and procurement. Mr. MacAskill added that he would think that these contracts would be less money now that the pandemic rush is over.

TOWN ADMINISTRATOR'S REPORT

Mr. Powers announced the hiring of Marissa Stone as the Executive Assistant in the Town Clerk's Office. Ms. Stone comes to the town with a strong background and joins the smiling sprits in the Clerk's office. In addition, Shawn Forbes started last week in the DPW as a maintenance manager. Mr. Powers went on to announce the hiring of Laurie Rolls as a Program Aide at the Community Center and Phyllis Cudmore as a Program Specialist in the Recreation Department.

Mr. Powers stated that the Board was looking to do a 7:00 p.m. start for their January 17th meeting. There were already items that were noticed for 6:00 p.m., so the meeting will need to start at 6:00.

SELECTMEN'S REPORT

Ms. Kavanagh said that she had a beautiful walk today at the Cold Brook Conservation Trail.

Mr. MacAskill noted that there is an extremely important vacancy on the Voter Information Committee. Harwich has a great Voter Information Committee and due to some retirements on the committee, we don't have a committee. This is very important as we have upcoming elections and budget information coming up.

CORRESPONDENCE

No correspondence was discussed.

ADJOURNMENT

Mr. Ballantine moved to adjourn the meeting of the Board of Selectmen, 2nd by Ms. Anderson and approved 4-0-0.

Respectfully submitted,
Jennifer Clarke
Recording Secretary