

APPROVED

RELEASED

**MINUTES
SELECTMEN'S MEETING
TOWN HALL
TUESDAY, JANUARY 17, 2023
6:00 P.M. - REGULAR MEETING
REMOTE PARTICIPATION OPTIONAL**

RECEIVED
TOWN CLERK
HARWICH, MA

2023 FEB -7 P 12: 28

SELECTMEN PARTICIPATING: Michael MacAskill, Larry Ballantine, Julie Kavanagh, Donald Howell & 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

Mr. Ballantine announced that the Treasure Chest Committee has decided to delay opening of the Treasure Chest from 9:00 a.m. until 10:00 a.m. Mr. Howell confirmed that they are still open, just with different hours.

Town Clerk Emily Mitchell was present and stated that we are 5 months away from May 2023 Annual Town Election. Nomination papers will be available at the Town Clerk's Office starting tomorrow, January 18, 2023. There are 4 offices on the ballot which include Board of Selectmen, Brooks Free Library Board of Trustees, Monomoy Regional School Committee and Water/Wastewater commission. The last day to obtain nomination papers is March 24, 2023 until 5:00 p.m. and the last day to submit nomination papers for certification is March 28, 2023 until 5:00 p.m. Ms. Mitchell announced that the last day to register to vote is April 21. January begins dog license renewal season. Registration and renewals can be done at the Town Clerk's office for dogs 6 months and older. Registration deadline is January 31. Residents will need to provide updated rabies paperwork for all dogs as well as neuter/spay certificates if applicable.

A. Committee Vacancies

Ms. Anderson read the list of committee vacancies, noting that we are down to 26 open positions.

Mr. MacAskill offered condolences on the passing of Dan O'Leary. Mr. O'Leary was a long time teacher and a staple in the community.

PUBLIC HEARING (No earlier than 6:00 p.m.)

- APPROVED
- A. Public Hearing continued from November 21, 2022 – Chase Escape Cape Cod, LLC d/b/a Summer House Café to present an update on the non-use of their Section 12, On-Premise, Seasonal All Alcohol Liquor License

Mr. Howell read the public hearing notice.

Mr. Powers read into the record an email received by both himself, Mr. MacAskill and Attorney Blake. The email was received after hours today, January 17, 2023. Counsel that is handling all matters for Chase Escape Cape Cod, LLC stated in the email that he is on paternity leave until the 3rd week in February and that Mr. Fiorillo is unavailable due to medical reasons. They have requested a continuance until February 21, 2023. Mr. Powers noted that he responded to the email and stated that their request is untimely and the hearings would be proceeding as noticed. He also informed them that their client and/or representative should make every effort to avail themselves for the hearing.

Town Counsel Attorney Blake was present remotely and recommended that the Board proceed with the hearing, noting that this is the 2nd time that the town has received a request to continue just hours before the hearing. The applicant has been given many opportunities to come before the Board and provide evidence as to why they have not opened. In Mr. Blake's opinion, the Board has done everything that they have needed to do and are not required to continue the hearing.

The Board agreed that there is no reason to delay the hearing and agreed to proceed.

No comment was provided in person or remotely from the applicant, applicant's counsel or the public.

Mr. Howell moved to close the public hearing, 2nd by Mr. Ballantine and approved 5-0-0.

Mr. Ballantine stated that in addition to delays, the applicant has not fulfilled any of the Board of Health or Conservation Commission requirements. Mr. Ballantine would like to see this move forward.

Mr. Howell pointed out that this has cycled out for the 2nd year of the license and that this is now 2 years of non-conformance. Mr. Howell asked if there has been any evidence that a new septic system has been started. Health Director Katie O'Neill was present and stated that they have not scheduled test holes for the property, which would be the first step in the upgrade process. Mr. Howell said that they are not capable of operating as a food and liquor establishment without a septic system.

Ms. Anderson and Ms. Kavanagh said that there is no need for further discussion. The Board has been provided information from every department that nothing has been done. At a previous meeting, the applicant talked about going for permitting with a 3 month timeline, and that has not been done.

Mr. Ballantine feels that the Board has bent over backwards to work with the applicant.

Mr. MacAskill stated that tonight's exercise was to get an update and that their liquor license has expired, adding that seasonal liquor licenses expire on January 14. Renewal packets are sent out in February and the Board usually votes on them towards the end of March. He feels that there is no action that the Board needs to take tonight, which was confirmed by Attorney Blake. Attorney Blake stated that when it comes time for them to renew their application, this will be something. If action is taken tonight, they can find a failure to exercise their license. Under Chapter 138, Section 77, it states that the licensing authority may, after a hearing, cancel any license issued under this chapter if the licensee failed to conduct the licensed business over the last year. Attorney Blake went on to read Regulation 1.19A and confirmed that the Board of Selectmen have followed all of the regulation requirements. The Board of Selectmen could make a finding tonight that during the calendar year of 2022, the establishment has failed to meet the public need and therefore the license should be cancelled for the prior year. Attorney Blake stated that it is important that the applicant is put on notice because when they submit an application for renewal, the Board can say that they are not going to renew based on 2022.

Mr. MacAskill stated that the licensing agent for the Town of Harwich has indicated that the establishment has not filed a manager of record change with the Town and that we are not even sure that the town has the right address for the applicant. Attorney Blake responded that the renewal packet should be sent to the owner of the establishment at this point as well as their attorney on record.

Mr. Howell moved as a finding of fact that the Board of Selectmen find that the applicant has failed during the entirety of the 2022 license period to meet the public need despite numerous opportunities to address this at both the Board of Selectmen and Board of Health level and find them in violation of their liquor license and that it is revoked, 2nd by Ms. Anderson.

Mr. MacAskill noted that the license is not being revoked.

Mr. Howell moved that as a finding of fact that the Board of Selectmen find that the applicant has failed during the entirety of the 2022 license period to meet the public need despite numerous opportunities to address this at both the Board of Selectmen and Board of Health level and find them in violation of their liquor license, 2nd by Ms. Anderson and approved 5-0-0.

B. Public Hearing – Review proposed amendments to the Harbor Management Plan, Appendix A, Special Purpose Mooring Assignment; Votes may be taken

Mr. Howell read the public hearing notice. Harbormaster John Rendon was present. Special purpose moorings are designed for businesses and yacht clubs who promote boating and boating education. Pleasant Bay Community Boating approached Mr. Rendon with this request and also went before the Waterways Committee on August 17 and received their unanimous support. Mr. Rendon reviewed the request being made as outlined in the memo dated December 8, 2022.

Mr. Howell closed the public hearing, 2nd by Mr. Ballantine and approved 5-0-0.

Mr. Howell feels that this is a wonderful request. Mr. Ballantine agreed and asked if it would affect any of the existing docks. Mr. Rendon responded that there would be no affects to existing docks that this request is strictly for moorings.

Ms. Anderson asked if the town would have any other need for moorings in the requested area. Mr. Rendon responded that there is no need. Harwich's mooring fields are established in Round Cove and Pleasant Bay and do not go anywhere near the area being discussed.

Mr. Kavanagh commented that this request seems like it will be a little safer as well. Mr. Rendon agreed.

Mr. Howell moved to approve the permitting of 8 special purpose moorings by the Harbormaster to Pleasant Bay Community Boating per Section 3.13 of reference (a) as provided in the packet, 2nd by Ms. Anderson and approved 5-0-0.

JOINT MEETING WITH BYLAW CHARTER REVIEW COMMITTEE

Bylaw Charter Review Committee members Sandra Hall, Linda Cebula, Anita Doucette & Deb Sementa were present. Ms. Hall called the meeting to order. Ms. Hall stated that everyone has been operating off of the charter that is posted on the website, which is not the latest version. Ms. Hall handed out language that was passed at May 2021 Annual Town Meeting and again at the ballot.

A. Legal effect of quantum of vote on Capital Plan and discussion on any other changes

Town Counsel Attorney John Giorgio was present. Mr. MacAskill stated that Attorney Giorgio was asked to prepare an opinion ahead of tonight.

Mr. Powers noted that the 2nd part of Section 6: Capital Outlay Plan 9-6-5 was adopted at the May 2019 Annual Town Meeting and followed by the Annual Town Election in June 2020, where the Board was discussing the capital plan in general. He added that the quantum of vote is relative to the 2nd sentence of 9-6-5, which was been in effect since June 2020.

Attorney Giorgio provided an overview of his legal opinion, noting that he was not aware of the subsequent opinion when his opinion was written, but that it doesn't change his opinion in any way. Every year, under this amendment, Town Meeting adopts a 5-year capital plan and that is done by a majority vote. Every year that the capital plan is adopted, it knocks the oldest year off of the plan. The issue is how the 2nd sentence of 9-6-5 is interpreted as well as how the 2 provisions are interpreted to make sense as provided in the charter. It was stated that the best way to interpret the 2nd sentence is that is that if during FY23, if there is an amendment proposed for the capital plan, that it would require a 2/3 vote of Town Meeting. The adoption of the new capital plan would require a simple majority vote.

Mr. Ballantine asked if when an amount changes in the capital plan, for an example from \$100,000 to \$110,000 that would be considered amendment. Attorney Giorgio responded that yes, it would be an amendment to the capital plan. Ms. Hall stated that she disagreed with Attorney Giorgio entirely. When Town Meeting adopts a capital plan, it adopts the entire plan and that the point was that any amendments of what Town Meeting had approved during a previous year would take a 2/3 vote. If you have a 2/3 vote in the 1st year, it is effectively the same. On the idea of monies, the capital plan is the plan that is about the budget and the monies are estimates. Regarding Mr. Ballantine's financial question, Ms. Hall disagreed with Mr. Giorgio's opinion and stated that you would have to amend the plan to change the amounts.

Mr. Howell commented that he is not sure what the practical effect of what Attorney Giorgio is. The actual expenditure of the monies relating to the adoption to year 1 of the plan have already been voted by Town Meeting. Attorney Giorgio responded that he is not sure what the practical effect is either. He could conceive a circumstances at the upcoming May Town Meeting where a project may wanted to be moved up from the first year. If you decided that you needed to add in essence a new item in FY23 to the capital plan that was not included in any prior votes that would be in effect an amendment to the 2023 portion of the plan. If there was a true emergency where money would need to be spent, you would be looking at an amendment to last year's capital plan.

Attorney Giorgio stated that after a debt exclusion is approved for a project, you then go out to bid, and bids can come in higher. The Department of Revenue has a 10% rule of thumb and generally says that you don't have to repeat the debt exclusion ballot question if the amount is under 10%. If over 10%, it would be considered a different project.

Ms. Anderson stated that she understands Ms. Hall's comments. Whatever year has all of these projects have numbers associated with them, if you only change the next year and a couple of the numbers are different, we don't need to amend the capital plan and the new numbers would be put into the separate article. Ms. Hall confirmed that this is correct and stated that this is a capital plan, not a capital budget. By the time you get to some of these projects, especially in the out years, it is a given that prices will rise. This is not a funding article, this is a plan.

Ms. Cebula stated that she is looking to get some yes or no answers to some of these issues. If there is something in the 2025 line of the plan that is now determined to be very important to move into an earlier year, 2024 as an example, would that be a 2/3 or simple majority vote. Attorney Giorgio responded that it would be a simple majority vote. He added that if you were to move something forward into 2023, then it would require a 2/3 vote because 2023 is in the previously approved capital plan.

Ms. Kavanagh said that Mr. Howell wanted to make sure that items didn't move out of sequence. She noted that this is a plan and nothing is steadfast and has to stay in that particular year. If you are trying to amend the plan prior to adopting a new plan, then you have an issue.

Ms. Cebula feels that section 9-6-5 would become irrelevant except in the case that something comes up and would have to be spend immediately.

Ms. Hall stated that the only year that is really important is the current one. Whether you do a simple majority vote on the rest of the plan or 2/3 vote, what we really need to know at the end of the day is that any change to year one will require a 2/3 vote. Mr. MacAskill noted that he hopes to clarify this tonight.

Mr. Howell said that this is about planning to plan. What is the value of the plan after year 1 if every year we adopt it by a simple majority and then change it to whatever sequence we want. Then the public will have no idea what to expect in the next 3-4 years. Attorney Giorgio responded that this is only about the quantum of vote. The voters get to decide on priorities by adoption a 5 year capital plan. Mr. Howell stated that the plan itself doesn't allow you to do anything other than ask for appropriation. Attorney Giorgio responded that the only way to interpret the current charter in terms of the 2/3 vote requirement is if you want to make a change in the first year of the capital plan before you adopt a new one, it takes a 2/3 vote. Mr. Howell asked if the provision said that a simple majority vote of Town Meeting shall be required to adopt a capital plan as previously adopted, would Attorney Giorgio have a different feeling. Attorney Giorgio responded yes, that would make a difference.

Ms. Hall stated that she reads this as "any" amendment and feels that it is fairly clear. It doesn't have to be a new item that is brought it, that even resequencing would require a 2/3 vote.

Ms. Kavanagh said that we have a dedicated committee that comes up with the capital plan and that they agree that it is a plan and that anything can change on a year to year basis. Going back to previous Selectmen discussions, the idea is that if something needs to be re-sequenced, the Selectmen feel that they should be able to do that because it is a plan. Ms. Cebula responded that no one is saying that the Selectmen don't have the authority or right to move an item around in the plan, the question is how many noses need to be counted for the vote.

Ms. Hall noted that the thing to keep in mind is that this whole exercise is designed to inform the voters. If you have a capital plan that was voted in a previous year, and the order is going to be changed, there shouldn't be a problem to get a 2/3 vote for all of the changes. Mr. MacAskill stated that this is a living document that can be changed. We are giving the people a plan, but everyone needs to remember that plans change. Every year, the voters have the right to approve or not approve something. He again stated that this is a living document and a plan and that we are making it more complex than it is. Ms. Doucette disagreed with Mr. MacAskill. If an article comes before Town Meeting, you are voting on that article that is set in stone. If you are going to change it, it has to go back to Town Meeting floor, speaking on the article, not the plan, but the plan is voted on at Town Meeting.

Attorney Giorgio stated that 2/3 votes are not that easy to obtain because that presents a lot of opportunity to impose its will on the majority. If anything, he thinks that the town should be looking to make Town Meeting more of a majority vote body.

Mr. Howell asked what would happen if a resident got to the microphone and says that they want to amend year 1 of what is proposed. Attorney Giorgio responded that would be different and that you would be talking about an amendment on Town Meeting floor. A motion to amend is a simple

majority vote. Mr. Howell responded that this has not been a problem. In past years, things have been re-sequenced because problems have arisen. His question is if you put it this way and say that the simple majority is the threshold, you invite someone to come up with an amendment that could pass at Town Meeting in a much easier way than if it were a 2/3 vote.

Mr. Ballantine argued that Mr. Howell is taking this too far. Mr. Ballantine thinks that the plan is a plan and does like the idea of having a vote go forward, but not so high that it is unworkable. If you go out another year, then things change. He did agree that we need to inform the voters and that the objection before was that the plan is changed too often. Mr. Ballantine said that we have a capital budget and a Capital Outlay Committee that are very responsible as well as a responsible Board of Selectmen who are reasonably responsible with the capital plan.

Ms. Hall stated that the Bylaw Charter Review Committee has a few other changes that they are discussing and will be putting together recommendations for an upcoming meeting.

Mr. MacAskill asked why we are working off of the wrong document. Ms. Hall responded that the town's website is behind in many ways, adding that you cannot find election results posted beyond the 2020 presidential election. You also cannot find Town Meeting election results after 2014. The Town Clerk sends any changes to e-code for updating. Mr. MacAskill would like to figure out where the process has broken down. Ms. Hall stated that e-code has information in the works, but that it is not yet been incorporated. Ms. Hall added that we really need to work on the website.

Mr. Howell stated that he is not interested in any other changes now. He is still unconvinced by information being provided and that he would like to be able to vote for the capital plan, but there is a good possibility that he will vote no at this point.

Ms. Anderson commented that she would still like to pursue the Town Clerk position being appointed rather than elected. Ms. Hall responded that this is not on their list at the moment.

Ms. Kavanagh said that other than zoning items, she would like to add a clarification in 9-6-5 that any amendment in the current year shall require a 2/3 vote at Town Meeting. Mr. MacAskill responded that he would be asking Attorney Giorgio to craft some language change for clarification.

Mr. Powers wanted to go back to statements being made about e-code. The voters have just approved changes this year. All of the items are with the vendor and the current Town Clerk has been on top of all of this since she took office. He went on to say that there were comments made about the website and staff. This is not an issue of the prior computer coordinator, current IT Director or current Town Clerk. Whatever reference made earlier at the meeting was not to any existing staff. Ms. Hall responded that she was responding to where the responsibility is in getting things to e-code and not being accusatory of anyone.

Mr. Howell asked that after something goes through the ballot, would it be fair to say that the Attorney General gets the documents and by July of that year, they would move to forward it or

turn it down. Attorney Giorgio responded that items get passed at Town Meeting, then go to the Attorney General for approval, then it would go on the ballot at the next Annual Town Election. He did add that there is an alternative to do a charter change by special act, where it would not have to go to the Attorney General, but that is not always the fast track.

Ms. Cebula stated that she has the same idea as Ms. Kavanagh when it comes to 9-6-5, so we will not have to do this again in 5 years with a different group of people. There needs to be transparency in government.

Mr. MacAskill stated that he would also like to have a future discussion on the Town Clerk position being elected or appointed. As far as the charter, Mr. MacAskill asked what Ms. Hall seeks happening with the charter as we move forward. He asked if we should have an independent committee that would work alongside everyone help make real revisions. Ms. Hall responded that it would depend on what the goal is. Mr. MacAskill said that he has heard the words vague and interpretation used a lot and that he thinks there is a lot of clean up to do. Ms. Hall responded that it is an ongoing process. If there are major things that Mr. MacAskill is concerned about, the committee would like to hear them. Mr. MacAskill would like to have a fresh set of eyes on the charter. Ms. Kavanagh agreed that a 3rd part is a good idea. That they can also say where things can be cleaned up and provide reasoning behind changes.

Ms. Hall said that the committee was given to understand that the \$75,000 consultant would be there to help advice the committee and do what the Selectmen are looking for. Mr. MacAskill personally thinks that we need a fresh set of eyes on the charter, while not removing the committee from the process. Ms. Anderson thought that the consultant would be to assist the committee.

Attorney Giorgio stated that he is currently working with the Town of Sandwich and their Charter Review Committee that are considering major changes to their form of government. He added his surprise that there hasn't been more of a push in Harwich to go to a stronger Town Manager form of government given all of the complexities and projects that the town has. KP Law has a lot of experience in working on things like this and they are ready and willing to assist where necessary.

Mr. Howell would like to have the consultant come in first and have them meet with the committee.

Mr. Ballantine feels that our charter has served us well and thinks that it is time to have a 3rd party look at it to be sure that it contains what is needed.

Ms. Cebula thinks of the review of the charter in 2 pieces. One would be to see if it is readable and understandable. The 2nd piece would be to see if changes are needed or not.

Ms. Doucette stated that she was part of the initial review and remembers that the charter went through a special act in 2008. She added that new eyes are always a good idea and that she looks forward to meeting with the consultant.

Ms. Hall adjourned the meeting of the Bylaw Charter Review Committee.

CONSENT AGENDA

A. Vote to approve Board of Selectmen meeting minutes: January 3, 2023 and January 9, 2023

Ms. Anderson commented that it is very nice to have minutes from the last couple of weeks to review, adding that it is a lot easier to remember what happened and what didn't. Mr. Powers agreed.

Mr. Howell moved to approve the Board of Selectmen meeting minutes: January 3, 2023 and January 9, 2023, 2nd by Ms. Anderson and approved 5-0-0.

NEW BUSINESS

A. Board discussion on priorities for the Real Estate and Open Space Committee

Mr. MacAskill stated that this came from the Real Estate and Open Space Committee (REOS) on what the Selectmen would like them to work on.

Mr. Howell feels that the committee is doing a really good job with both the preservation of land, building of land and putting land back into the private sector again. It would be great if they could continue the assessment of what is possible to resolve titles.

Mr. MacAskill stated that the committee will be meeting on the 20th and will discuss this as a group.

Chair of REOS, Elaine Shovlin was present. They will be meeting on Friday and will be joined by the Interim Assessing Director. The committee will be looking to know which properties have already been resolved.

B. Vote to authorize a gift account to be setup to accept gifts for the Veteran's Memorial located in Evergreen Cemetery

Cemetery Administrator Robbin Kelley and reviewed the request.

Mr. Howell moved to authority a gift account to be setup to accept gifts for the Veteran's Memorial located in Evergreen Cemetery, 2nd by Ms. Anderson and approved 5-0-0.

C. Vote to approve the temporary closure request from Blue Stripe LLC d/b/a Cape Sea Grille, 31 Sea Street

Mr. Ballantine moved to approve the temporary closure request from Blue Stripe LLC d/b/a Cape Sea Grille, 31 Sea Street from February 1, 2023 through February 28, 2023, 2nd by Ms. Anderson and approved 5-0-0.

OLD BUSINESS

A. Update – Judah Eldredge

Mr. Powers stated that we have recently heard from counsel and that the next step related to this is switching to the proposed order of taking. Mr. Powers reviewed the requirements for publishing of a legal ad. Looking at the Board's schedule, it looks like February 13, 2023 would be the meeting date. The Board agreed to this date and Mr. Powers said that he would work with staff and confirm legal ad posting dates.

Elaine Shovlin was present and asked if the Board is planning on using eminent domain. Mr. MacAskill responded yes, that what was previously voted.

Mr. MacAskill clarified that this is a piece of property on Seth Whitefield Road.

B. Debrief from Joint Meeting with Harwich Affordable Housing Trust on December 12, 2022

Mr. MacAskill formulated a list of questions from the December 12 meeting. The list was sent to Mr. Powers for answers.

Mr. MacAskill stated that 2 members of the trust had expressed interest in changing the trust documents. The response was that this would start with a vote of the trust and then could be brought to the Selectmen as an agenda item.

The next question was based on the average median income (AMI) and if a written answer was received on what the number was, 40% to 60% or 40% to 80%. Mr. MacAskill knows that the conversation that day was related to work force housing and the Marceline property and what the trust can do. Mr. MacAskill knows that this process is a lot more difficult than simply asking for something in writing. Mr. Powers responded that the trust is bound by the definitions of low and moderate income as defined by the Department of Housing and Community Development (DHCD). They generally think about it in terms of low income before up to or less than 60% AMI and moderate is up to or less than 80% AMI. However, as we get into discussions on certain projects on certain lands, there is a 10 page matrix that talks about whatever the anticipated use of the property would be or what the anticipated development would be and then information on funding sources. For Mr. Powers, it has always been about the phrase work force housing and from his perspective, this is a confusing topic that doesn't really relate to the trust, but it does relate to the town and any other agencies, boards, committees or people.

Another question was if Mr. Powers as the Town Administrator and chair, designate someone else to be the chair, or would the Vice Chair be the chair in any case. Mr. Powers responded that there is an opinion from counsel that this is a policy discussion rather than a legal decision and that he would turn it back to the Board. When the declaration of the trust was approved, there was nothing noted that prevents an amendment of the trust for such a purpose.

Mr. Howell stated that the trust had a really good site visit today and that we all agree about the 80% AMI. His takeaway from the meeting was that there is a common understanding that we just need to start moving forward. Mr. Howell said that he is not interested in blaming anyone and is not looking to change the trust document for that reason.

In going back to the AMI, for Mr. MacAskill it has always been about work force housing in conversations and what the trust is wanting to do. He is not seeing a lot of people dive at the 80% AMI with the funding that they would need to make a project work. Mr. MacAskill does not want to steer the public in the direction that we can use 80% AMI and would be more comfortable with a 40-80% range. Mr. Howell responded that 80% is a cap and it really boils down to something that we have not discussed. The money for the Marceline property came largely from Community Preservation funding. The law states what the constraints are for the use of that funding. Mr. Howell has been in contact with neighboring towns to find out how they were able to move forward. Mixed-use housing is pretty much what everyone is doing with this point. Mr. Howell agrees with the 80% cap.

The next question was related to the trust membership makeup. Trust member Judith Underwood had asked questions relating to the makeup of the trust and whether or not the Board could change the makeup of the trust and if members can be removed. Mr. Powers responded that the short answer is yes and went on to review article 5 of the declaration of the trust. A member of the trust may be removed from the trust by the Board of Selectmen by a majority vote held at a public meeting or by failure to re-appoint.

Ms. Kavanagh stated that she looked at her notes from previous discussions. One thing talked about earlier was the fact that we didn't have any committee language of the trust in the charter. She would like that discussed further. Mr. Howell responded that the language is under Mass General Law. Ms. Kavanagh also noted that there was discussion about rotating the chair and the election by the trustees. She feels that it is important to rotate the chair role. Where she is stuck is how we move forward as soon as possible.

Mr. Howell mentioned that the term board is used throughout the document and is not specific to Selectmen or Trustees. He would like to make sure that the document is tethered to what group is being discussed and that it is not obscure as we move down the road. Mr. MacAskill stated that this would be a trust conversation.

Trust member Brendan Lowney was present. He commented that whenever the term board is used by itself in article 3, when used alone, it is referring to the trustees.

Mr. MacAskill said that there was a resident suggestion to remove DHCD language related to AMI from the trust document. Mr. MacAskill noted that this would be handled by the trust. Mr. Powers added that the trust document will celebrate its 5th birthday this summer. The purpose of the trust as he understands it is clear, unambiguous and simple for the preservation and creation of low and moderate income housing as defined by DHCD. The trust articulates the mission and then personalizes it. The Town of Harwich made the choice to develop a Board of Trustees of the Affordable Housing Trust. If there is to be a conversation as to changing the purpose of the trust, Mr. Powers said that he would try and fight vigorously as he can to retain it. The term work force housing is undefined by the statutes and is separate and distinct. The trust can preserve and create low and moderate income housing. Everyone else outside of the trust can do any kind of housing, including work force housing.

Ms. Kavanagh said that even though work force housing is not defined, it leaves a big problem with housing. She would like to leave conversations with the trust, but would be open to suggestions.

Ms. Anderson feels that there are enough issues with housing that we can leave the trust as is and deal with the affordable end of it.

Mr. Ballantine stated that within the framework when we define moderate income, maybe 80% is the attractive number for the workforce group. For him, that is top priority.

Mr. Howell stated that he sits on the trust and has been hearing all of these things for years. There is no way to have a discussion unless it is happening at a public meeting. There was never a vote of the trust of what they wanted to do regarding DHCD. At this point, the only thing he is grappling with is when the money goes into the trust that it cannot come out unless for the purpose that it was formed. We will not be in the position to fund anything over 80% as we currently stand. It needs to be proven to the public that something positive can be done. We need a success.

Mr. Lowney said that to get on the subsidized housing inventory list, we need to be at 80% or less. Mr. Lowney noted that this would be for one person earning \$60,900 and would get higher for a family of 4. Even under this, we could help people that are making \$60,000 or less. Mr. Lowney does not want to see people get hung up on the numbers.

The next question proposed was relating to if the trust could do their own procurement. Mr. Powers responded that the short answer is that this is a policy decision, which is being generous. The charter reads that the Town Administrator is the Chief Procurement Officer for the town. The only exceptions are the Water/Wastewater Commission and the Board of Library Trustees as elected bodies.

Mr. MacAskill noted that an update is needed on the Sisson Road housing project in its entirety. The bottom line is that we need an update and will have an agenda topic soon on Sisson Road and the lease of the property. Mr. Powers responded that this discussion is regarding 265 Sisson Road, Harwich Junior Theater and the old recreation building. When the town was going through the exercise of registering the deeds in the name of the trust, this was one of the properties that was conveyed at 2019 Town Meeting. The conveyance was everything at the parcel and was transferred to the care, control and custody of the trust. With respect to the lease, the trust would assume the lease if the entirety of the property were to be conveyed to the trust. The conveyance was confirmed by an attorney. There has been no change to the lease agreement or the lease relationship.

Mr. Ballantine asked to confirm that this property is owned by the housing trust. Mr. Powers confirmed that it is, per 2019 Town meeting.

Mr. Howell stated that the trust has the ability to acquire by purchase, gift or other means, property both real and personal. The trust also has the ability to flip, per the trust document. Eventually, the existing lease will expire. What we had in play was 2 quads on the property with a separate

septic system. The existing building would remain and the trust would not be precluded from later leasing out that building. He thinks that it would be correct to say that the money can go to the town if it is an asset of the trust. Mr. MacAskill said that this will be a future agenda item for discussion regarding the lease and the performance of the lease. He added that it makes no sense to him why the Harwich Junior Theater would not want to move into the 204 Sisson Road building. He would like to look at the performance of the lease and what conditions exist and come up with an educated decision of the Board. Mr. Howell asked that the trust be included in these discussions. Mr. Lowney added that the trust does assume the lease moving forward, but there is a note at the very bottom that states that it may not make sense for the trust to be the landlord in these circumstances. Mr. Lowney read the entire note for the record.

Mr. MacAskill said that he would share the document being discussed in next week's packet correspondence. The Town Administrator will share with the trust members.

CONTRACTS

- A. Vote to authorize the Chair to execute the Fiscal Year 2023 Student Awareness of Fire Education (S.A.F.E.) and Senior SAFE grant contract between the Department of Fire Services and Town of Harwich in the amount of \$3,781 and \$2,077

Mr. Howell moved to authorize the Chair to execute the Fiscal Year 2023 Student Awareness of Fire Education (S.A.F.E.) and Senior SAFE grant contract between the Department of Fire Services and Town of Harwich in the amount of \$3,781 and \$2,077, 2nd by Ms. Anderson and approved 5-0-0.

- B. Vote to approve a change order request from Bowditch Excavating in the amount of \$6,000 for the Cranberry Valley Golf Course bunker renovation project.

Mr. Howell asked why Mr. Powers wouldn't sign this contract. Mr. Powers responded that this is a change order from a larger contract.

Mr. Ballantine moved to approve a change order request from Bowditch Excavating in the amount of \$6,000 for the Cranberry Valley Golf Course bunker renovation project for Selectmen signature, 2nd by Ms. Anderson and approved 5-0-0.

TOWN ADMINISTRATOR'S REPORT

Mr. Powers reported that Susan Kerr has been promoted from Executive Assistant to Assistant Treasurer/Collector. This is a great opportunity for a well-qualified employee to progress upwards.

4 Selectmen will be joining Mr. Powers in Boston on Friday and Saturday for the 44th Annual Business Meeting and Trade Show of MMA.

SELECTMEN'S REPORT

Board of Selectmen
January 17, 2023

Ms. Anderson said that it has been painfully apparently to her that the Affordable Housing Trust Fund Board has been and continues to be increasingly dysfunctional. At this point, the only way she sees to fix it and move forward with housing is to change out some of the players and get fresh minds into the conversation. She suggested that we thank the members for their service now, whose terms expire on June and bring in 2 fresh members. Mr. MacAskill responded that he would put that on the next agenda for an action of the Board. He added that he did receive a fair amount of calls today and that it is time to make a change and time for move forward.

CORRESPONDCE

None discussed.

ADJOURNMENT

Mr. Howell moved to adjourn the meeting of the Board of Selectmen, 2nd by Ms. Anderson and approved 5-0-0.

Respectfully submitted,
Jennifer Clarke
Recording Secretary