

APPROVED

RELEASED

**MINUTES  
BOARD OF SELECTMEN'S MEETING  
DONN B. GRIFFIN ROOM, TOWN HALL  
732 MAIN STREET, HARWICH, MA  
EXECUTIVE SESSION 5:45PM  
REGULAR MEETING 6:00PM  
MONDAY, APRIL 3, 2023**



**MEMBERS PARTICIPATING:** Michael MacAskill, Chairman, Mary Anderson, Vice Chair, Julie Kavanagh, Don Howell and Larry Ballantine

**ALSO PARTICIPATING:** Joseph F. Powers, Town Administrator

**CALL TO ORDER:** Chairman MacAskill called the meeting of the Board of Selectmen to order on Monday, April 3, 2023 at 5:45PM and noted that they are going into Executive Session and will return to open session no earlier than 6:00PM.

**EXECUTIVE SESSION:**

A. Pursuant to MGL C30A section 21(a)(3) to discuss with respect to collective bargaining for all town union and the Chair has determined that open session would have a detrimental effect on the town's bargaining position; Police Patrol and Superior Police Union

Mr. Howell moved to go into Executive Session as presented, seconded by Ms. Anderson. Vote 5:0 in favor.

Mr. MacAskill called the Board of Selectmen's meeting for April 3, 2023 back to order noting that they started in Executive Session. In regards to the Superior Police Union, he reported that they have settled and ratified a contract. The one union remaining is Police Patrol. Seven of the eight contracts settled prior to Town Meeting.

**PLEDGE OF ALLEGIANCE:**

Mr. MacAskill invited attendees to join in the Pledge of Allegiance. He requested a moment of silence in memory of Larry Brophy. Members of the BOS and Town Administrator Powers shared memories and spoke of his character and how much Mr. Brophy meant to them and did for the town.

**PUBLIC COMMENTS/ANNOUNCEMENTS**

**A. Committee Vacancies**

Ms. Anderson noted the committees that have vacancies and encouraged people to fill out applications.

**B. Motor Vehicle Excise Tax Bills have been mailed and are due 04/23/23.**

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Mr. MacAskill noted, for the public, that mv excise taxes are due 04/23/23.

**CONSENT AGENDA:**

A. Approve Board of Selectmen Meeting Minutes:

1. March 20, 2023

B. Vote to approve the Assistant Town Administrator's recommendation to grant permission by NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY for the purpose to install 45' +/- of 1-4" conduit, 40' of 1-3" conduit and one proposed handhole under the road at 1603 Old Queen Anne Road

Mr. Howell moved to vote to approve the Consent Agenda as presented, seconded by Ms. Anderson. Vote 5:0 in favor.

Mr. MacAskill noted that the ethics training is due to be completed by Friday, April 7th.

**NEW BUSINESS:**

A. Update from the Treasurer/Collector on tax collection

Betty Clark Macleay, Treasurer/Town Collector noted that the mv taxes are due April 24th, the 23rd is a Sunday. She proceeded with an update on the town tax bills, collections and publishing outstanding tax bills, for motor vehicles and real estate. Ms. Macleay continued with an update on all other statistics. Board members asked questions and Ms. Macleay replied with the answers and explanations. There was conversation regarding budget and whether or not more money is needed for legal funds. Mr. MacAskill asked the Town Administrator if more funds were available from general legal funding. Mr. Powers concurred that funds were available.

B. Discussion on proposed municipal parking lot location and proposal for electric vehicle charging station; Votes may be taken.

Mr. MacAskill noted a proposal related to a municipal parking lot in Harwich Port. He spoke to a principal at Evkon but asked if the Board was going to support this before going through the process. Board members asked questions and expressed their opinions and concerns.

Bob Cohen from Pleasant Street was present remotely and voiced his opinion about the charging station and against the proposed location. He suggested other possible locations.

C. Discussion on 2023 Annual Town Meeting Warrant Articles:

1. Vote to place additional articles

No other articles are being considered at this time.

2. Vote to support and recommend articles for 2023 Town Meeting Warrant

Mr. MacAskill noted the two articles left for the full Board. One is Article 25, a Community Preservation article related to the Housing Trust which has gone from \$250,000 to \$500,000.

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Mr. Howell moved to accept and adopt the revised Community Preservation funding to the Affordable Housing Trust Fund in the amount of \$500,000, seconded by Ms. Anderson. The Board members commented on the procedure and how better to approach Community Preservation in the future. Vote 5:0 in favor.

Mr. MacAskill noted Article 37, the Accessory Dwelling Bylaw.

Mr. Howell moved to accept and adopt Article 37 amending Zoning Bylaw C325 Article 5 Use Regulations, seconded by Ms. Anderson. Vote 5:0 in favor.

### 3. Discussion on additional material to be included in the Warrant

Mr. MacAskill noted the Articles 1-54 and 60-62 are all the articles with the exception of the Petition Articles. He asked Mr. Powers what the procedure is to add Ms. Kavanagh's votes to the record.

Mr. Powers replied that Mr. MacAskill should identify the Articles and that he wants it reflected that Select Board member Kavanagh agrees.

Mr. MacAskill stated for the record: This is for Selectman Kavanagh to support Articles 1-54 and 60-62

Mr. Howell moved that they add an affirmative vote on all the Articles and add Julie Kavanagh's name to the affirmative, seconded by Ms. Anderson. Vote 5:0 in favor.

Town Administrator Powers noted the Errata Sheet before the Board and also noted that it will be added to the website. He explained the information on the sheet and on his memorandum.

Town Administrator Powers read the quantum of votes for the record:

The following Articles require a two-thirds vote; Article 11, 19, 20, 21, 37, 38, 39, 42, 43, 44 and 48. Article 50 requires a four-fifths vote, Article 61 requires a two-thirds vote.

He noted that counsel is still evaluating whether the ADU Bylaw as presented requires a two-thirds or a straight majority. As a caution, they will go forward with a two-thirds vote.

Mr. MacAskill noted that, the changes to the Warrant were voted on and the Errata Sheet will be added to the website.

Mr. Powers referred to Article 40, Amend the Regional Agreement between the towns of Chatham and Harwich.

Mr. MacAskill noted that Dr. Carpenter hadn't provided what they need to complete the Warrant. They can either go ahead and put what Chatham has in their Warrant or indefinitely postpone this until next year when they'll have more information.



Mr. Powers continued and completed his explanation of Article 40. He noted the review by DESE, information that was needed to close the Warrant regarding Appendix D. The options are to strike the reference to Appendix D and leave the Article in, indefinitely postpone the Article or Withdraw the Article. His recommendation is that he strike the reference to Appendix D and that the Article be indefinitely postponed but kept in the Warrant.

Board members expressed their opinions and recommendations.

It was agreed that they will leave Article 40 in the Warrant and strike the reference to Appendix D.

Mr. Ballantine moved for the Board of Selectmen to reconsider their support of Article 40, seconded by Ms. Anderson. Mr. Howell went on record as saying that he would be more than willing, if this was possible to happen, he would be supporting of it. Vote 4:1 in favor.

Mr. Ballantine moved to indefinitely postpone Article 40, seconded by Ms. Anderson. Vote 5:0 in favor.

Mr. MacAskill asked Mr. Powers for clarification on Article 23.

Mr. Powers answered the question by explaining the process. Board members asked questions for clarification.

Mr. MacAskill commented on Article 15 the Capital Plan and that there is no positive motion from the Finance Committee. Members expressed their concerns about the FinComm's response to the Article.

Mr. MacAskill commented on Article 16 and asked if a breakdown of the work being contemplated could be supplied.

Mr. Powers replied that each item in the five year plan has a corresponding application. He also offered to sit down explain to anyone, why any item that the Board has supported should be supported. He also recognized the work of the Capital Outlay Committee.

Mr. MacAskill commented on Article 56, the Plastic Reduction Ban, the vote is corrected to 1:3, one yay and 3 nay.

Mr. Powers confirmed that the correction has been made.

Mr. MacAskill asked if, in regard to the new positions, should they add an estimated cost or leave them as is?

Mr. Powers made recommendations and noted options.

#### 4. Discussion on Fiscal Year 2024 Operating Budget

No issues were discussed.

D. Vote to close and sign the 2023 Annual Town Meeting Warrant

Mr. Howell moved to close and sign the 2023 Annual Town Meeting Warrant, seconded by Ms. Anderson.

Mr. Powers noted that within this Warrant is a balanced Budget that relies on various funding sources but also accomplishes building up the Town's reserves.

Vote 5:0 in favor. Motion carried unanimously.

E. Vote to approve and sign the 2023 Election Warrant

Mr. Howell moved to approve and sign the 2023 Election Warrant, seconded by Mr. Ballantine. Vote 5:0 in favor. Motion carried unanimously.

F. Approve a 2023 Seasonal Common Victuallers license renewal for Sundae School Inc. d/b/a Sundae School ice Cream - 606 Route 28

Mr. Howell moved to approve a 2023 Seasonal Common Victuallers license as presented, seconded by Ms. Anderson. Vote 5:0 in favor.

G. Discussion and possible vote to approve a 2023 Seasonal, on-premise liquor license renewal for Chase Escape Cape Cod, LLC d/b/a The Summer House Cafe - 126 Route 28

Mr. MacAskill noted that there are memos from the Building Department, Fire Department and the Board of Health in the packet.

Board members discussed the situation, asked questions and offered opinions.

Mr. MacAskill noted that there is no quota on seasonal licenses. Under there liquor regulations, if an establishment doesn't use a license, they lose it. He noted the Board of Health requirements.

Mr. Powers noted that Mr. Fiorello is authorized to sign the form as he is the manager of the corporation. He also added, for the record that what the Board as the local licensing authority is relying upon is included in the packet. There are 4 pages, the first being standard retail license renewal form which was signed by the manager of the LLC on Mar ch 19th. Additionally there is commentary from staff, commentary from the Fire Department noting that the establishment is not in compliance, commentary from the Building Commissioner noting that the establishment is not in compliance and the Health Department has indicated that the establishment is not in compliance.

Mr. Howell moved to deny the application for the 2023 Seasonal, on-premise liquor license renewal for Chase Escape Cape Cod, LLC d/b/a The Summer House Cafe - 126 Route 28 West

Harwich, having not achieved any of the milestones that have been requested including from the Building Department, Fire Department and Board of Health, seconded by Ms. Anderson.

Mr. MacAskill noted that no one on the Board has said that they won't support the restaurant once they are able to open. To continue to issue a liquor license and allow a licensee to try and dictate the rules and muscle their way into the Board not following the rules is a bad statement. The Board is following their regulations.

Vote 5:0 In favor.

### **OLD BUSINESS**

A. Update on the following Requests for Proposal:

1. 204 Sisson Road
2. West Harwich Baptist Church
3. Willow Street

Mr. Powers noted that there is a memorandum in the packet explaining the status of each. He reviewed the information for the Board and noted when the proposals will be available to the Board. There was discussion about 70 Willow Street, the proceeds, Affordable Housing and the Stabilization Fund. Also discussed was strengthening the RFP by adding specifically where the money will go. All Board members agreed that the proceeds from the sale of the Willow Street property should go directly to the Affordable Housing Trust.

### **TOWN ADMINISTRATOR'S REPORT**

Mr. Powers reported that his submitted offer has been accepted by Mr. Kenneth Watson to be a part-time van driver. He informed the Board that he has executed a contract under Chapter 30B Utilizing State Contract regarding janitorial services for comfort stations. He also reported that the Assistant Conservation Agent, Melissa Millett has accepted a position with the Town of Provincetown. He thanked her for her efforts and wishes her well in her endeavor.

### **SELECTMEN'S REPORT**

Ms. Anderson noted two meetings that she and Mr. MacAskill attended and thanked the Community Preservation Committee and the Planning Committee for their diligence and willingness to listen to our requests.

Ms. Kavanagh reported that the Building Department's online permitting is working well.

Mr. MacAskill thanked all the employees, the Town Administrator, staff and everyone who has worked on the Warrant.

### **CORRESPONDENCE**

No correspondence

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## **ADJOURNMENT**

Mr. Howell moved to adjourn, seconded by Ms. Anderson. Vote 5:0 in favor

Respectfully submitted,

Judith Moldstad  
Board Secretary

