



APPROVED

MINUTES
SELECTMEN'S MEETING
REMOTE PARTICIPATION ONLY
MONDAY, JUNE 14, 2021
6:15 PM (Executive Session)
6:30 PM (Regular Session)

RELEASED

SELECTMEN PARTICIPATING: Michael MacAskill, Larry Ballantine, Donald Howell and Mary Anderson

ALSO PARTICIPATING: Town Administrator Joseph F. Powers

CALL TO ORDER:

Chairman MacAskill opened the Board of Selectmen's meeting for June 14, 2021 at 6:15 PM. Ms. Anderson moved to enter into executive session. Seconded by Mr. Howell.

Vote: 4:0 in favor. Motion carried unanimously.

EXECUTIVE SESSION

A. Executive Session pursuant to G.L. c 30A, s 21(a) to discuss litigation strategy with respect to the case of 3137, LLC et al. (Ember and Port) v Town of Harwich, et al., United States District Court, C.A. No. 1:21-CV-10473, if discussing the matter in open session will have a detrimental effect on the Town's litigating position and the chair so declares.

B. Executive Session pursuant to G.L. c. 30A s21(a)(3) to discuss litigation strategy with respect to the case of Ember Pizza, Inc. and The Port Restaurant and Bar, Inc. v Town of Harwich, et al., Superior Court Department Civil Action No. 2172 CV 00112, if discussing the matter in open session will have a detrimental effect on the town's litigating position and the chair so declares.

C. Executive Session pursuant of G.L. c. 30A, s21(a)(3) to discuss litigation strategy with the respect to the appeal of the decision of the Board of Selectmen to impose discipline on Ember Pizza, Inc. and The Port Restaurant and Bar for license violations, if discussing the matter in open session will have a detrimental effect on the Town's litigating position and the chair so declares.

Mr. MacAskill called the regular meeting to be reopened at 6:38 PM and reported that the Executive Session was related to Federal Court and Superior Court and litigation strategy with respect to litigation on all fronts with the Port Restaurant and Bar against the Town of Harwich. It was decided that discussing in open session would have a detrimental effect on the town's litigation position and the chair so declares. Tonight's conversation was an update from the town's attorneys.

Mr. MacAskill invited attendees to join him in the Pledge of Allegiance. Tonight's meeting is primarily dedicated to the CWMP, sewer CAD modeling, initial pump station site review and an extension of the Chatham Municipal Agreement. A few things were added to the agenda, just normal business consent agenda items to lighten tomorrow night's agenda.

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Mr. MacAskill repeated what he had said earlier as the Board had been told the audio had not been working.



PUBLIC COMMENTS/ANNOUNCEMENTS

Town Administrator Powers announces a notice to the general public. There was a recent report of a rabid animal, the first such case in 15 years. The USDA is on Cape and is conducting live trapping throughout the Cape including on conservation land in the town of Harwich. He asked residents and pet owner to be aware that the USDA is here and live trapping today through July 2nd on the Teixeira Conservation, Bells Neck, Sand Pond Woodlands and the Isabelle Smith Monomoy River Woodlands.

Mr. Ballantine asked that if a suspicious animal is spotted, who should be contacted.

Town Administrator Powers answered that the Police Department or the Animal Control Officer.

Town Administrators Powers also stated that they received word from KP Law that efforts to expand upon the remote meeting such as this, did not bare any fruit and therefore the regular Board Meeting Tuesday, June 15th will be in the Griffin room. The meeting notice will have to be updated to reflect the fact that, while this may be on Go To Meeting, it is in fact a public meeting that will be held openly and the public is allowed to attend. That corresponds with Town Buildings reopening tomorrow June 15th.

CONSENT AGENDA

A. Discussion and possible vote to approve the Committee Appointments recommended by the Interview Committee:

1. Ray Gottwald - By-Law/Charter Review Committee - Full Position - Term expires 6.30.2023
2. Carol Thayer - By-Law/Charter Review Committee - Full Position - Term expires 6.30.2024
3. Deborah Sementa - By-Law/Charter Review Committee - Full Position - Term expires 6.30.2023
4. Sandra Hall - By-Law/Charter Review Committee - Full Position - Term expires 6.30.2024
5. Anita Doucette - By-Law/Charter Review Committee - Full Position - Term expires 6.30.2022

Ms. Anderson moved to approve the Consent Agenda as read, 2nd by M. Ballantine.

Mr. MacAskill and Mr. Howell sat in on these interviews. They had worked on this while on Interview Committee prior as they had interviewed other members. It was a great set of interviews. There were 8 applicants, 4 had been on the Committee in the past, and they had a will to continue and were a very strong working group. They explained why they had resigned previously and felt they could continue now with the new Town Administrator and the Board.

Mr. Howell commented that he has known Mr. Gottwold for a number of years, he has a lot of experience and it looks like a good team overall.

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Mr. Ballantine commented that he would like to remind everyone that these meetings are open, everyone's invited and encouraged to sit in. It is important to expand these discussions as broadly as possible.

The vote was 4-0-0 with Mr. Ballantine, Ms. Anderson, Mr. Howell and Mr. MacAskill voting aye by roll call.

NEW BUSINESS

A. Announcement - Annual Meeting with Licensed Liquor Establishments will be held on Friday, June 25, 2021 at 10:00AM at the Harwich Police Department

Town Administrator Powers explained that in previous years the Chief of Police, the Administration Department and other town staff worked together regarding the Liquor Establishments and their licensing to do an annual review. That event will happen June 25th. Chief Guillemette will be in attendance as will the Town Administrator and other staff members, to remind the establishments of the town's expectations of them. This will not be broadcast on channel 18.

Chief Guillemette commented that these meetings have been held proactively for the last 4-5 years, it includes the package store people and the meetings are usually well attended. Other town departments are represented such as Fire, Health and Building. A representative from the ABCC is usually available to answer questions. There is an agenda and sign in sheet. A copy of the liquor regulations is distributed and all questions are answered. The intent of the meeting is to put people on notice that they are held responsible for following these liquor regulations and state statute and what would happen if they don't.

Mr. Ballantine and Ms. Anderson are going to attend. That is not a quorum and therefore does not need to be posted.

Town Administrator Powers suggested that it could become problematic and the Board may consider another venue for a meeting.

Mr. Ballantine and Ms. Anderson will not attend.

B. Announcement - The Board of Selectmen will hold a public meeting to discuss noise on Monday, June 28, 2021 at 6:30PM

Mr. MacAskill commented, that is a regular scheduled Board Meeting. He is bringing forward the report from the Noise Containment Committee. Several neighbors have hired an attorney to do an interpretation of the town's Noise By-Law and that will be in the packet. His intention is to open it up to anything and everything to do with noise and the Noise Containment Committee but broaden it into the Noise By-Law. A long period of time will be blocked off for that conversation. It's time to bring it forward and for the Board to take action based on the recommendations. It will be left open that if the Board wants to take action on something, they can but they will not be obligated to do so.

- C. Discussion - Comprehensive Wastewater Management Plan (CWMP)
- D. CWMP Sewer CAD Model - Initial Pump Station Site Review
- E. Discussion and possible vote to request an extension of the Harwich Chatham Inter Municipal Agreement Sewer Payment

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Town Administrator Powers made reference to the CWMP and the Sewer CAD Model which is the pump station review with Russ Klekamp. Last is the possible vote on the Harwich Chatham Inter Municipal Agreement Sewer Payment. There are additional items in the packet regarding those items.

Dan Pelletier Wastewater Superintendent commented that the CWMP discussion tonight is for updates and to bring the Board up to speed. They had a meeting with MEPA as well as DEP to discuss potential paths going forward. They are currently discussing 2 options, the Notice of Project Change and a second that Mark Drainville of the GHD will describe.

Mark Drainville Principal and Office Manager of GHD described the second option as a Special Review Procedure. There are 2 alternative paths and they are in discussion with MEPA about which is the best path forward for the town. There will be at least one more meeting to make the final decision.

Town Administrator Powers added one other item related to the general topic. The DHY Working Group is scheduled to meet again Friday, June 18th, he is prepared to attend that meeting but thought the Board may want to discuss that. He thinks many factors have changed, the three towns may not come out the way the discussions of the past were going. A check in meeting this Friday may be beneficial for all. The meeting may be at the Dennis Town Hall.

Mr. Howell commented that neither Dennis nor Harwich have taken any action. Yarmouth did some. In order to adopt DHY, if that's what the towns want to do, they have to adopt the exact same language in an article simultaneously.

Mr. Pelletier gave a quick recap. What we're going over tonight is the initial pass at the pump station locations for the Sewer Cad Model. Once we build out from this we can determine if there are areas where we are missing coverage etc.

Russ Klekamp an engineer with the company GHD stated that as Harwich moves forward with its wastewater planning it will have different options for implementation and that is the basis of the discussion to the modifications of the CWMP. Tonight they are presenting an option where they look to maximize the gravity sewer system. That is one of several options. This is not the finite destiny of what they're going to do, it's just the detailed beginning of one of several options moving forward. We will also show the pump station sites and locations. This is preliminary, early on planning.

Mr. Ballantine commented that we've been working on East Harwich and our next phase is West Harwich. We are not agreed as to whether we go with DHY or not. We are looking at the possibility of sewerage as one option. To do this it was necessary to explore several routes. The issue is how to do that most efficiently in terms of location of the pumps, to expand gravity as much as we can and there is discussion regarding what the flow rates will be. This information is for planning and will certainly change as we go forward especially as we look to changing the CWMP.

Mr. Howell commented that his initial thought was that they'd also be examining East Harwich because the predication for the flow rates there was based on a build out that was 41% higher than what we had. If we don't pass any changes in zoning by laws, it may be codified in the CWMP as a flow rate that is exaggerated.

Mr. Klekamp explains that this is a town wide sewer CAD model. The model results give good conceptual design information which gives good cost information which goes into the financial plan. In the event that there is a DHY partnership, the pump station locations would likely be the same but the routing of the force mains would likely change. If the DHY is agreed on, a sewer CAD model of the entire region should be done, not just an individual town.

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Mr. Ballantine clarified that East Harwich has an exaggerated flow because we were looking at the “smart growth” of that area based on a grant to look at the village center. The value he sees in this is that the intended relationship with the planned zoning in the CWMP is an interactive project so we start off with what these folks are doing to give us the sewer flow and some idea of the expenses. We can circle that back to see how the effects where. We may want to run the model again. It’s a critical step and he applauds the work they are doing on this.

Mr. Klekamp shows a Google Earth image with the entire town of Harwich. He described what the Board is looking at, including the Assessor’s database on Mass. GIS. He also described how pump stations in different areas would differ. He went through the index and each individual station and the information about each parcel. Gravity pump stations have to be at a point where the flow can flow to them.

Town Administrator Powers informed the Board of the change from their documents (he showed the proposed location). They are now referring to parcel #1300. That is a land code, not an address.

Mr. Howell asked for clarification. There are 2 types of conservation land. Is it held by the conservation Trust or is it joint tenancy with the town?

Mr. Klekamp answered that this is not Harwich Conservation Trust, it’s privately owned.

Ms. Anderson asked if the pump station will be on town property or actually on the person’s property.

Mr. Klekamp answered that generally the town has a right of way on the road lay out, usually 5-10 feet passed the edge of the pavement. It also depends on the type of the pump station. There are multiple different types. On this particular one, it would be partially on the private property so an easement would be necessary to build a pump station at this site. Mr. Klekamp continued through each site giving a description of each.

Griffin Ryder Town Engineer commented that the pump stations that have been installed are about 12’ x 14’. Now that they have been constructed and the landscaping has been installed, they’ve taken on a different look than they may have looked like when they were first installed. Not only with the architecture of the building but also with screening and vegetation can it blend in.

Mr. Klekamp continued through and described each site. At the conclusion he explained that the next step is that we extend the gravity sewers from these pump station sites. That will dictate the zones of coverage. Once the zones are determined there will be voids and gaps. At that point a decision to either put another pump station or do we have to do plan b for those sites. The next time you’ll see this is when they get the gravity systems laid out. They will then go over, with the Board, where there is a lack a coverage.

Mr. Howell’s concern is the assumption that they have already decided to do a compound system where everybody is paying for everybody. It’s a betterment that compounds through the years. His concern about the grinder pumps is that it asks a lot of some home owners who would have to buy their own back up pump, generator, maintain them etc. That will affect the value of their house. He wants to make sure that if they do have to do some hybrids, they’re cognizant of trying to make sure this is equitably distributed.

Mr. Ballantine is hoping that in the next presentation there will be some financial analysis. When other towns have used grinder pumps, they’ve asked the town to pick up the cost of the pumps and then asked

the residents to pick up the maintenance. Referring to the presentation. Some of those sites appear to be fairly close to wetlands. Do we have to a waiver on that, how does that proceed?

Mr. Pelletier responded that when they did the ones in East Harwich they had to go through Conservation.

Mr. MacAskill opened up the questioning to the public, no questions were asked. He commented that was a great presentation. He asked that, on the next presentation, they could bring back photographs and addresses of current pump stations and the main pump station that connects us to Chatham. Also photographs of sites with proposed pump stations. It would be a benefit to the people who will be effected by these to see what they do or can look like finished.

Town Administrator Powers referred to the memo that he included in the packet. There are the original materials, the current IMA and the Municipal Agreement between the towns of Chatham and Harwich. Noting page 4, section 3, capacity purchase fee, through the flukes of timing, impacts from the pandemic, work being done and several other things, the Town of Harwich was staring down a 3 million dollar payment for FY 2022 and that was never the intent of the parties. Manager Goldsmith and Dr. Duncanson were agreeable and understood where the Town of Harwich was coming from. The letter was a written on his behalf, if the Board approves it, it would be sent by him to his counterpart in Chatham clarifying his request that they push out the past 2 payments, going form a 5 year to a 7 year mark. That payment of 1.5 million would be pushed out from March 2022 to March 2024 and the 7 year mark now becomes the 9 year mark pushed out from March 2024 to March 2026. The result of that is, with commencement of flow in FY 2022, we have already planned and budgeted the 1.5 million. The request is for the Board to agree to the concept and to the letter that would be sent.

Mr. Howell moved to accept the concept and approve the letter to be sent by our Town Administrator to Manager Goldsmith, 2nd by Ms. Anderson. The vote was 4-0-0 with Mr. Ballantine, Ms. Anderson, Mr. Howell and Mr. MacAskill voting aye by roll call.

SELECTMEN'S REPORT

Mr. Howell-no report

Ms. Anderson-no report

Mr. Ballantine commented that he was driving through Harwich Center on Saturday just after 9:00 and was stopped by a police procession of about 20 cruisers. It was impressive and caught him by surprise. It was for the Special Olympics at Monomoy.

Mr. MacAskill commented that the regular meeting is tomorrow night at 6:30PM in the Griffin Room and people can access Go To Meeting as that was the original set up but as of now the meeting is open to the public.

Mr. Ballantine moved to adjourn, 2nd by Mr. Howell. The vote was 4-0-0 with Mr. Ballantine, Ms. Anderson, Mr. Howell and Mr. MacAskill voting aye by roll call.

Respectfully submitted,

Judith R. Moldstad
Recording Secretary

June 14, 2021