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MINUTES  
SELECTMEN'S MEETING  
TOWN HALL  
MONDAY, OCTOBER 13, 2020  
6:30 P.M. - REGULAR MEETING  
REMOTE PARTICIPATION ONLY

APPROVED

RELEASED

**SELECTMEN PARTICIPATING:** Larry Ballantine, Michael MacAskill, Ed McManus, Donald Howell & Stephen Ford (via phone)

**ALSO PARTICIPATING:** Interim Town Administration Joseph Powers

**CALL TO ORDER**

Mr. Ballantine called the meeting to order at 6:30 p.m.

**WEEKLY BRIEFING**

A. COVID-19 Updates

Health Director Meggan Eldredge was present. Since the packet information was put out, we have had one more additional positive case which brings our total count up to 162. Harwich is currently following 6 active cases and we are at a 2.3% positivity rate. We are seeing increased case numbers across the Commonwealth. The Health Department has received a few inquiries regarding Halloween guidance. At this time, it is recommended to not go door to door if at all possible and also try to avoid any indoor gatherings. Some communities, including the Harwich Community Center will be offering drive-thru trick or treating with wrapped treats.

The Health Department will be holding a drive-thru public flu clinic on October 20 from 2:00-5:00 at the Community Center. Pre-registration is required by emailing the Health Department at [health@town.harwich.ma.us](mailto:health@town.harwich.ma.us) or calling 509-430-7509. The clinic will be open to all Harwich residents age 6 months and older. Unfortunately, due to high demand, the senior high dose vaccine will not be available.

Mr. Powers complimented Ms. Eldredge, the Health Department and the CERT team members from Barnstable County on a job well done.

B. Update on ongoing efforts by the Town in support of the business community

Mr. Powers and Ms. Williams will be meeting tomorrow to have discussions about the extension of outdoor table service.

Harwich Chamber of Commerce Executive Director Cyndi Williams was present and noted that we have seen a slight decline in the number of people in town, but the weather has remained suitable. She will be bringing back information next week on upcoming holiday events.

**PUBLIC COMMENTS/ANNOUNCEMENTS**

No public comments/announcements were heard.

**PUBLIC HEARINGS/PRESENTATIONS (Not earlier than 6:30 P.M.)**

- A. Discussion and possible vote - Review the implementation of a proposed fee structure associated with the Local Stormwater Permit under the Town of Harwich Comprehensive Stormwater and Illicit Discharge Regulations

Town Engineer Griffin Ryder was present remotely.

**Mr. MacAskill moved that the Board open the public hearing to review the implementation of a proposed fee structure associated with the Local Stormwater Permit under the Town of Harwich Comprehensive Stormwater and Illicit Discharge Regulations, 2<sup>nd</sup> by Mr. Howell. The vote was 5-0-0 with Mr. MacAskill, Mr. Ballantine, Mr. Howell, Mr. McManus & Mr. Ford all voting aye by roll call.**

Mr. Ryder provided the Board with a layout of the new fee structure as follows: Area of Land Disturbance Permit Application Fee  $\geq 1$  acre and  $< 2$  acres \$300.00  $\geq 2$  acres and  $< 3$  acres \$600.00  $\geq 3$  acres and  $< 4$  acres \$900.00  $\geq 4$  acres TBD. In October 2018, the Board adopted the Storm Water Regulations which is an Environmental Protection Agency mandated program that is aimed at cleaning up storm water. Mr. Ryder commented that it is a very simple permit application. Once an application has been filed, the town will notify the abutters via first class mail. He added that there are not a lot of projects in town that would trigger this.

No public comment was heard.

**Mr. MacAskill moved to close the public hearing, 2<sup>nd</sup> by Mr. Howell. The vote was 5-0-0 with Mr. MacAskill, Mr. Ballantine, Mr. Howell, Mr. McManus & Mr. Ford all voting aye by roll call.**

Mr. MacAskill asked how Mr. Griffin arrived at his proposed costs. Mr. Ryder responded that the former Town Engineer had started this project and this was the fee structure that was already laid out. Mr. Griffin added that the fees are on the low end and that he supports the fee structure as presented.

**Mr. MacAskill moved to approve the fee structure associated with the Local Stormwater Permit under the Town of Harwich Comprehensive Stormwater and Illicit Discharge Regulations as presented, 2<sup>nd</sup> by Mr. Howell. The vote was 5-0-0 with Mr. MacAskill, Mr. Ballantine, Mr. Howell, Mr. McManus & Mr. Ford all voting aye by roll call.**

The Board had a discussion on public hearings versus public meetings.

**B. Bikeways Committee Presentation to the Board of Selectmen**

Bikeways Committee Chair Fran Salewski was present and reviewed the report that was provided in the packet.

Mr. Ballantine asked if the wooden fence project request was going to be submitted to the Community Preservation Committee. Mr. Salewski responded that they would not be submitting to CPC and that it is in the Highway's plan/budget.

Mr. MacAskill and Mr. McManus thanked the committee for all of the work that they do.

**NEW BUSINESS**

- A. Discussion and possible vote – Amend the Policy for Approval of Municipal Contracts to a \$50,000 threshold

Mr. Powers stated that this request is for the Board to consider amending their policy for approval of municipal contracts up to a \$50,000 threshold. He is asking that the Board return to the level of \$50,000 or less to help expedite procurement. 90-95% of the procurement that we do is under Chapter 30B which is the simplest structure. The vast majority falls under \$50,000 with many projects being under \$30,000.

Mr. Howell commented that if we are going to amend the policy at all, that we should strike the School Department and make it the Water/Wastewater Department.

Mr. MacAskill noted that we have done a much better job on procurement with this administration than the previous. At the last meeting, Mr. MacAskill asked about a procurement checklist and hopes that his request will be supported. He asked if Mr. Powers is a Massachusetts Certified Procurement Officer. Mr. Powers responded that at present, he is not. He had been previously signed up for the classes, but due to a family issue, he was not able to proceed with the classes. He is now signed up to take the classes in November. Mr. Powers reviewed the certification requirements and added that the town has one Certified Procurement Officer.

Mr. MacAskill asked if the town has submitted any delegation forms with the Inspector General's Office. Mr. Powers responded that none have been filed since the previous Town Administrator left, but that he would follow up and report back.

Given the way that things are going, Mr. MacAskill stated that he would likely support a \$50,000 contract amount. Since the Board meets weekly, he is not sure that it would make sense to change the policy. He added that the Board should be aware of any contracts, especially with the pandemic.

Mr. Ballantine stated that he would support the request along with a commitment from Mr. Powers that he keep the Board informed.

Mr. Howell feels that if we approve this kind of authority and the Board finds that we are not getting the information in a timely manner, that the policy can be modified again.

Mr. McManus commented that most of the items that we are purchasing are things that were approved or appropriated through an article at Town Meeting. He would be hesitant to add in any steps to slow down the process. He added that a lot of procurements are off of the State or County bid list and that the prices are pre-set.

Mr. Ford stated that this would be a good way to streamline the process and agreed with Mr. Howell that if we start seeing issues, we can pull back.

**Mr. Howell moved to amend the Policy for Approval of Municipal Contracts from \$30,000 to \$50,000 for scheduled procurements, 2<sup>nd</sup> by Mr. Ford. The vote was 4-1-0 with Mr. Ballantine, Mr. Howell, Mr. McManus & Mr. Ford voting aye and Mr. MacAskill voting nay by roll call.**

A. Discussion and possible vote – Personnel By-law Compensation Plan update for FY 2021

Mr. Powers presented the Board with a draft of the updated non-union compensation plan and stated that he is asking that the Board not take any action tonight as he was not able to meet with the Finance Director until late this afternoon.

Mr. McManus commented that in the past, when the Board reviewed the bylaw employees that the seasonal bylaw employees were typically done in the spring and that the Board was able to look at what was happening in the market.



Mr. Powers stated that he would be bringing this back before the Board for a vote at next week's meeting.

### **OLD BUSINESS**

#### **A. Discussion and possible vote - FY2021 Board of Selectmen Goals**

Mr. Howell stated that he has no problem saying that Harwich will continue to work with Dennis and Yarmouth on the possibility of an agreement, but not sure that it should be a goal. Mr. Ballantine responded that the incorrect draft goal document was put in the packet and that Mr. Howell is looking at a previous version. Mr. Powers commented that he would circle back to staff about which version was added to the packet.

Mr. MacAskill asked that a revised set of goals be sent to him for review before they are in the packet.

#### **B. Discussion and possible vote – Interim Town Administrator's Goals and Objectives**

Mr. Ballantine stated that Mr. Ford has been working with Mr. Powers on these goals and that this topic will be brought back for next week. Mr. Ballantine hopes that we can come to an agreement to finalize the goals so that the Board can have their first evaluation of Mr. Powers' performance.

#### **C. Discussion and possible vote - Board of Selectmen Budget Message Charter Section 9-2-2**

Mr. MacAskill stated that when it comes to the 2% budget, that the word desire should be changed to mandate. He feels that the Board needs to be pretty firm on their budget ask given the ongoing conversations and the continued pandemic challenges. There needs to be a clear directive from the Board that 0% is what we are striving for and that 2% would be the worst case scenario. Mr. Howell agreed that it should be a mandated budget at 2% or less.

Mr. McManus thinks that we are looking at the impact on our tax payers and that they don't see an increase by more than 2%. Mr. Ballantine commented that Mr. McManus is looking at the net effect.

Mr. MacAskill commented that we have had 11 years of solid growth in Harwich and that for him, controlling the budget and not spending the growth makes the most sense and that is what he would be voting for. While he feels that indirect costs are important, he is not sure that the department heads should be banging their heads against the wall trying to calculate all costs for an area that they might use.

Mr. Ballantine stated that he would support trying to keep the recreation fees down so we don't shut anyone out.

Mr. MacAskill suggested that information regarding indirect costs be brought back for future discussion.

**Mr. MacAskill moved to approve the Board of Selectmen Budget Message Charter Section 9-2-2 with the amendment that the word desire be replaced with require, 2<sup>nd</sup> by Mr. Howell. The vote was 5-0-0 with Mr. Ballantine, Mr. MacAskill, Mr. Howell, Mr. McManus & Mr. Ford voting aye by roll call.**

#### **D. Discussion and possible vote – Board of Health Sewer Regulation Amendments**

Mr. Powers stated that he has met with the Health Director and Wastewater Superintendent regarding the sewer regulations. He knows that we have been working off of a memo that dates back to July 2018 and that the Board is looking to have a discussion on the connection timeframe and possible use of a Registered Sanitarian for the design work. The Wastewater Commission has this topic on their agenda for their meeting on Friday.

Mr. Ballantine commented that if Harwich wants to change the agreement with Chatham, that a public hearing would need to be held and that we would need to notify Chatham 45 days prior so they can take any appropriate action. He suggested holding a public hearing to allow for everyone to weigh in on these issues.

Mr. Howell stated that he is not sure that we need Chatham's legal authority to say that Harwich is going to allow a certain amount of time for their residents to tie into the sewer system. He also added that it was the Health Department that did this, not the Board of Health.

Mr. MacAskill noted that he would support having a public hearing on the regulations. Mr. MacAskill went on to say that there is a very real reason that we are doing this project. To extend the connection timeline from 1 year to 2 years without any real mechanism for a hardship exemption seems wrong to him. He would propose staying with the 1 year connection timeline but allow for some kind of extension process if someone can show a true hardship. Mr. MacAskill also commented that when Harwich developed the CWMP and went to Town Meeting for approval, there was no 100 unit apartment complexes included in the discussions. We sold the sewer system on what the current build out is with some smart growth. He would support including that information in the regulation.

Mr. Ballantine stated that the original reason for 1 year versus 2 years was the concern that there would not be enough contractors available for the 600 homes plus whatever homes Chatham was working on still connecting. He suggested a future agenda item to discuss the 100 unit building project from the Selectmen's standpoint. There is also the land control use policy that is in place that was required to be done for the SRF funding.

If you go back to July 2019, Mr. Howell brought up that there needed to be a cap on how much flow could go out of the East Harwich area. The residents were promised that the town would not allow anything beyond natural growth to a point. The first time you grant an exemption, everyone will want the same exemption.

Mr. Ballantine asked how we might be able to help residents who can't afford to connect in the 1 year timeframe.

Mr. McManus suggesting that a resident may not have to have their connection completed in the 1 year timeframe, but that they should at least have to have a contract in place.

Mr. MacAskill said that Chatham has an extensive list of sewer installers and that Harwich is still putting our list together. The message should be that the sewer system is up and running and that people need to hook up. He asked that a draft language be prepared on 1 year versus 2 years. Mr. Ballantine responded that he would work on that with staff. Mr. MacAskill asked if it would be worthwhile to get a legal opinion on if we can make a sewer regulation based on building sizes. Mr. Ballantine responded that he doesn't think that the 100 unit building would be dependent on the sewer. Mr. Howell disagreed and added that under 40B, they are required to hook into sewer if it is available.

Mr. Powers stated that the regulations in the packet are from 2015. He wants to make sure that the Board is working with the correct version and added that he would send Mr. Ballantine any additional information including the Chatham IMA.

- E. Discussion and possible vote to refer the Cold Brook Eco-Restoration Project Memorandum of Agreement and License Agreement between the Town of Harwich and Harwich Conservation Trust to Harwich Conservation Trust for review

In reviewing this with the Town Engineering, a possible deficiency was found. Mr. Powers asked for additional time to allow him to work with Town Counsel.

- F. Discussion and possible vote - Interim Assistant Town Administrator's Employment Agreement

Mr. Powers stated that he wishes to renew the contract of Bob Lawton as the Interim Assistant Town Administrator. Yarmouth is looking for an Interim Town Administrator, which may have an impact on this decision. Mr. Lawton continues to assist with procurement on a weekly basis. The net effect of this would have him in the office 1 day a week. Mr. Powers asked what the Board's expectation is regarding the search process. Mr. MacAskill responded that he thinks that this should be done now based on the needs of the Administration Office.

Mr. Ballantine stated that we have talked in the past about needed human resources expertise. He wondered if adding legal expertise would be helpful as well. He would like to have a feeling that the needs to the town are being covered.

Mr. Howell said that he would be ok with having a menu of what the Board desires in terms of core competency.

Mr. McManus feels that the variety of what the position needs to cover could change from year to year. In the past, he asked that they look at the job description to make sure that it covers all of the things that are necessary and that the pay scale cover a person who is competent to do the job. When the person is interviewed it is also important to make sure that the Town Administrator will be able to work with this person and that they will be able to branch out and grow in areas.

Mr. Ford commented that the Board seems to agree that we need to find a person with a certain skill set and that they will be able to back up the Town Administrator in a competent fashion and learn other skills with time.

The Board and Mr. Powers had a discussion on the timeline of Mr. Lawton's contract.

**Mr. McManus moved that the Board approve the Interim Assistant Town Administrator's Employment Agreement effective October 1, 2020 and that the agreement can be terminated with 15 days' notice, and to authorize the Interim Town Administrator to sign the agreement, 2<sup>nd</sup> by Mr. Howell. The vote was 5-0-0 with Mr. Ballantine, Mr. MacAskill, Mr. Howell, Mr. McManus & Mr. Ford voting aye by roll call.**

### **CONTRACTS**

- A. Vote to approve – Chapter 90 project request for patching in various areas

**Mr. MacAskill moved to approve the Chapter 90 project request in the amount of \$259,760 for patching in various areas, 2<sup>nd</sup> by Mr. Howell. The vote was 5-0-0 with Mr. Ballantine, Mr. MacAskill, Mr. Howell, Mr. McManus & Mr. Ford voting aye by roll call.**

### **TOWN ADMINISTRATORS REPORT**

Mr. Powers stated that he has information from the ABCC regarding the 2021 legal holidays and dates of observance. This information will be distributed to the liquor license holders. He noted

that there is no reference to Juneteenth. Mr. Howell asked that this information be posted on the town's website.

### **SELECTMENS REPORT**

Mr. Howell stated that there was a vote taken this week by the Barnstable County Wastewater Management Board. Once the official document has been received, he asked that it be placed on a future agenda and he would provide additional information.

Mr. MacAskill said that there is a rumor of a solar field going into the sand pit in East Harwich. He knows that someone was hired to do title work on the sand pit and that the landowner and the person driving this may not own 100% of the pit. Mr. Powers responded that he would follow up.

### **ADJOURN**

**Mr. MacAskill moved to adjourn the meeting of the Board of Selectmen, 2<sup>nd</sup> by Mr. Howell. The vote was 5-0-0 with Mr. Ballantine, Mr. MacAskill, Mr. Howell, Mr. McManus & Mr. Ford voting aye by roll call.**

Respectfully submitted,  
Jennifer Clarke  
Recording Secretary

