



MINUTES
SELECTMEN'S MEETING
MONDAY, NOVEMBER 2, 2020
6:00 P.M. - EXECUTIVE SESSION
6:30 P.M. - REGULAR MEETING

APPROVED

RELEASED

SELECTMEN PARTICIPATING: Larry Ballantine, Michael MacAskill, Donald Howell, Ed McManus & Stephen Ford (Mr. Ford was present remotely)

ALSO PARTICIPATING: Interim Town Administrator Joseph Powers

CALL TO ORDER

Mr. Ballantine called the meeting to order at 6:00 p.m. beginning with the Executive Session.

EXECUTIVE SESSION

- A. Pursuant to M.G.L. c. 30A, § 21(a)(6), to consider purchase, exchange, lease or value of real estate if the Chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body

Mr. Ballantine re-opened the meeting following Executive Session. The Board continued discussions regarding the purchase, exchange, lease or value of real estate and will be coming back for future discussions.

WEEKLY BRIEFING

Mr. Powers stated that information was released by the State as well as the Alcohol Beverage Control Commission regarding COVID-19 guidance. Order 53, 54 & 55 have been updated and Mr. Powers reviewed the changes that will go into effect. Mr. Powers would like to have a general discussion with the Board regarding the net effect that these changes will have on our business community.

Mr. Ballantine asked if there is any expectation as to how long these changes will be in effect.

A. COVID-19 Updates

Health Director Meggan Eldredge was present remotely. Historically, Governor Baker's office has made their COVID-19 decisions based off of 3 week data trends. At this point, the changes will be in effect for a minimum of 3 weeks, but Ms. Eldredge anticipates them going for longer. We have seen a large increase in positive cases in the past 2 months across the Commonwealth. Cluster events are driving the numbers and we are not seeing spread from restaurants or retail store settings.

Ms. Eldredge reviewed the updated orders as well as the new "stay at home" advisory that was released. The new guidance is advising people to stay in their own household after 10:00 p.m. You would only leave your house to go to school or work or for other essential needs. It is also advised for people to not have gatherings in your home with anyone outside of your household.

Mr. Howell asked if this "stay at home" advisory would eliminate the possibility of friends having sleepovers. Ms. Eldredge responded that sleepovers would be discouraged. The data from the Department of Public Health shows that outbreaks are happening in younger people as a result of crowded gatherings. The revised order 53 regarding early closures for certain businesses hits hard for restaurants and alcohol sales. It also affects close contact personal services including barber shops, salons, massage parlors,

museums, cultural centers, etc. All locations, including private clubs, catering events, and anywhere that serves alcohol will have a 9:30 p.m. cut off time. Ms. Eldredge reviewed the enforcement and violation structure.

The revised order 54 reduces the number of people that can gather both indoors and outdoors. Indoors at private residences and any other place that isn't an event venue has a limit of 10 people inside and 25 outside. Events that are held in public settings are limited to 25 people inside and 100 outside. The order also requires that anyone planning an event with more than 50 people needs to notify the local Board of Health at least one week in advance of the event. They will be responsible for providing, if asked, the names and contact information of the people who will attend the event. These gatherings will also have a 9:30 p.m. stop time. There are exceptions to the rules which include hospitals, health care facilities, federal and government offices and special needs housing facilities.

Ms. Eldredge reviewed the revised mask order that was released by the Governor.

Ms. Eldredge stated that employers can now ask for documentation about their employee's medical conditions in order to verify any exemptions.

As a town, we will be talking about office spaces and how to make sure that everyone is comfortable. There are still a lot of questions that need to be answered.

Mr. Ballantine asked if there are any alternatives of getting assistance in having COVID-19 questions answered. Ms. Eldredge responded that the State has a phone line that the public can call for COVID-19 questions. People can call 2-1-1 which will go to the Department of Public Health. They will triage the calls and call people back within an hour or two if they don't have an immediate answer. People can email the local Board of Health at health@town.harwich.ma.us if they have questions.

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

Harwich Chamber of Commerce Executive Director Cyndi Williams was present. They have been working with businesses to start applying for the grant applications that were put out last week by the Massachusetts Growth Capital Corporation. She noted that during the pandemic, the Chamber has welcomed 12 new members who all do business or have businesses in Harwich.

Ms. Williams has been hearing from businesses about what they need to do regarding new guidance. She will get with Ms. Eldredge and Mr. Powers to put together a plan of distributing all information to the business community. Ms. Williams noted that the restaurant industry seems to be the one that has taken the hardest hit.

Mr. McManus asked for clarification on what the grants are for. Ms. Williams responded that one grant is for businesses with 5 employees or fewer and would be eligible to receive up to \$25,000. The other grant is for 50 or fewer employees and would be eligible to receive up to \$75,000. Ms. Williams added that the grant funds can be used for staffing utilities and technical assistance. They cannot be used for the business to purchase large equipment or real estate. The intent of the grants is to promote the stabilization of the businesses.

C. Update on status of outdoor table service providers at licensed establishments

Mr. Powers reported that of the 16 establishments that had expanded outdoor table service, 8 have discontinued, 7 plan to continue and we are still waiting to hear back from one. Administration staff is working on distributing updated guidance to establishments. Mr. MacAskill asked why we haven't heard back from the 1 business. Mr. Powers stated that staff reached out to all establishments last Monday and he is not sure why the 1 hasn't responded.

PUBLIC COMMENTS/ANNOUNCEMENTS

Joe Ganley was present remotely to provide comments on the noise committee agenda item. Mr. Ballantine asked him to hold his comments until the agenda item is discussed.

CONSENT AGENDA

- A. Vote to approve Caleb Chase request in the amount of \$1,000
- B. Vote to accept the gift to the Harwich Police Department of Pet Kennel Wall Units from Banfield Pet Hospital
- C. Vote to accept the resignation from Cyndi Williams from the Adhoc Noise Containment Committee

Mr. MacAskill moved to approve the consent agenda as listed, 2nd by Mr. McManus. The vote was 5-0-0 with Mr. MacAskill, Mr. Ballantine, Mr. McManus, Mr. Howell and Mr. Ford all voting aye by roll call.

Mr. MacAskill thanked Ms. Williams for her involvement in the Adhoc Noise Containment Committee.

NEW BUSINESS

- A. Board of Selectmen to conduct a performance review for the Interim Town Administrator

Mr. Ballantine stated that the Board had talked a few meetings ago and decided to move ahead do an assessment for the Interim Town Administrator. The evaluation that they have is based on the draft objectives and goals at the moment.

Mr. MacAskill asked to clarify Mr. Powers hired date. Mr. Powers responded September 1.

Mr. MacAskill stated that in his opinion, Town Meeting was run very well under the direction of Mr. Powers. With respect to the FY21 budget, Mr. Powers exceeded Mr. MacAskill's expectations. He commented that Mr. Powers has done a much better job in keeping the Board up to date on all communication. Mr. MacAskill did note some confusion surrounding the hiring timeline of GHD but did not want to hold the performance review based on that.

Mr. Ballantine said that overall, Mr. Powers has exceeded expectations. He ran Town Meeting very well and has done an excellent job of communicating with the Board and staff. The only issue in the past has been communication delays in talking to residents. At the time, it was likely due to the workload that COVID-19 was putting on staff and Mr. Ballantine noted that Mr. Powers has made an extreme effort to catch up.

Mr. Howell found himself mostly agreeing with the other member's comments. Going into Town Meeting, Mr. Powers was very focused on delivering what he was asked in terms of a balanced budget. Despite the fact that we had to reinvent Town Meeting on the fly, it was run very smoothly. On a personal level, Mr. Howell stated that Mr. Powers has tried to help reign in the Affordable Housing Trust, which is personally gratifying for him. Mr. Howell would like to give Mr. Powers credit for thinking outside of the box adding that Mr. Powers has regained the trust of the Board. For Mr. Howell, the overall evaluation of Mr. Powers is exceeding expectations. Mr. Howell feels that it will be very important to see how Mr. Powers staffs the Assistant Town Administrator position.

Mr. MacAskill would like to see the evaluation based on actuals and not one specific Board members dealings with the Town Administrator. Mr. Howell agreed and added that it is hard to hold the Town Administrator to a goal that the Board of Selectmen doesn't have.

Mr. Ford feels that Mr. Powers has exceeded on the items that the Board has asked of him since his appointment. One of the things that has helped Mr. Powers is that the Board has been more coherent in how they approach him in terms of the type of performance that they expect. The process is more a

reflection of everyone trying to come together as a team. Mr. Ford commented that he has confidence that Mr. Powers performance will continue.

Mr. Ballantine would like the record to reflect that the Board agreed that Mr. Powers has exceeded their expectations.

Mr. Powers stated that he appreciates the thoughts that the Board has put together and will take to heart what he needs to work on, understanding that it is best for the town.

B. Discussion and possible vote to temporarily halt Adhoc Noise Containment Committee meetings

Mr. MacAskill commented that it is the feeling that the committee has turned into something that they were not given a charge for. They have taken great strides and made some votes. Mr. MacAskill has asked for a snapshot of what the committee has voted, what the voters were and where they were at. He believes that the committee has been put in a position of becoming the complaint department. Mr. MacAskill would like to see the Selectmen take a more direct role. There are a lot of resident complaints that are piling up and the Board needs to act on them, understanding that some alleged violations are pending hearings. After the Board has a snapshot from the committee, they can put further discussions on an upcoming agenda. Mr. MacAskill stated that this is only a proposed temporary halt of the committee.

Mr. Ballantine stated that with Mr. Powers and counsel's input, we can look at how we can address noise concerns in a more concrete and quicker fashion.

Mr. Howell commented that it is really unreasonable to ask a citizen volunteer committee to get involved with enforcement actions. Getting the committee to identify problems and problem areas is the first step in helping the enforcing authority to move forward.

Mr. Ballantine suggested that the Board might want to wait until they have a snapshot from the committee before allowing any public comment.

Mr. McManus asked what the timeline is for license renewals. Mr. Powers responded that annuals are due for renewal at the end of the month and seasonal renewals will be due in March.

Joe Ganley was present remotely and apologized if he misunderstood the charge of the committee. If not the noise committee, he asked what the appropriate venue is for residents to raise complaints about specific establishments that might be in violation. Mr. Ballantine responded that noise complaints should be directed to the Police Department. Mr. Ganley went on to say that he has done that multiple times and asked if at some point, the licensing authority should move forward with enforcement. Mr. MacAskill added that this has been an exceptional year and the Board has failed to bring this forward sooner, noting that it has been dragged out longer than it should have been.

Mr. Powers stated that the noise committee would not be enforcing the regulations, that it would be the licensing authority. If anyone has noise complaints, they should first be registered with the Police Department. Any time a complaint is received, the Police Chief makes Mr. Powers aware of it.

Mr. Ford emphasized that Mr. Ganley has been in touch with him as well and understands that he is rightfully frustrated. Mr. Ford would like the Board to show that there is a method to address the issues.

Mr. Ganley asked if there is an opportunity for people to provide testimony at the violation hearings. Mr. Powers responded yes and that anyone who is willing to submit testimony has to be willing to be cross examined by town counsel as well as the establishments counsel. Mr. Powers noted that some of the allegations have already been heard, found to be accurate, approved by the Board of Selectmen and the parties have served their sentence. Some of the violations were for COVID-19 violations, not all for noise.

Mr. McManus stated that the Board is just as frustrated with the slowness of the process.

Mr. Ganley requested that he be allowed to provide testimony regarding any COVID-19 or noise violations against The Port Restaurant.

Bob Nickerson was present remotely and stated that he is not happy that public comment is not being heard tonight. Mr. Ballantine responded that public comment will be more productive when we have better information from the noise committee. Mr. Nickerson commented that he has a lot of empathy for Mr. Ganley and what they have dealt with this summer. He hopes that something can be accomplished in future discussions.

Mr. MacAskill thanked each and every member of the committee noting that a fair amount of work has been done.

Mr. MacAskill recommended temporarily halting the meetings of the Ad Hoc Noise Committee pending receipt of the committees report and scheduling a meeting with the Board, 2nd by Mr. Howell. The vote was 5-0-0 with Mr. MacAskill, Mr. Ballantine, Mr. Howell, Mr. Ford & Mr. McManus all voting aye by roll call.

- C. Vote to approve – Hawkers and Peddlers License for the sale of Christmas Trees – Pleasant Lake Pizza Shark – 403 Pleasant Lake Ave, Harwich

Mr. MacAskill moved to approve the Hawkers and Peddlers License for the sale of Christmas Trees at Pleasant Lake Pizza Shark, 403 Pleasant Lake Avenue, Harwich, 2nd by Mr. Howell. The vote was 5-0-0 with Mr. MacAskill, Mr. Ballantine, Mr. Howell, Mr. Ford & Mr. McManus all voting aye by roll call.

OLD BUSINESS

- A. Update from the Interim Town Administrator – Meeting with Chris Wise

Mr. Powers stated that he expected to be able to provide a narrative to the Board, but that there is not a lot of reportable information to give from his meeting with Mr. Wise. The meeting with Mr. Wise was an opportunity for them to understand where both parties are coming from. Mr. Wise indicated that he is going to keep his options open and agreed that he would keep in touch with Mr. Powers. If Mr. Powers receives any updates, he will first update the Board and then the general public. There is no project at this time.

Mr. MacAskill reported that he was asked to attend an outdoor meeting with about 30 residents. Most of the group happened to be from the Sherwood Road and Halls Path perimeter. There are a lot of very concerned residents and they were assured that the town will be as transparent as possible as any information is received.

Mr. Howell stated that the only real project that the Affordable Housing Trust has in front of them is the project on Sisson Road and added that they are not anywhere near asking the public for input because they haven't developed an RFP. At this point, they are looking into engineering to see if any project is plausible.

Mr. Powers walked the Board through the 40b process.

Mr. MacAskill asked if anyone has reached out to the Affordable Housing Committee about the possibility of them retracting their vote of the project. Mr. Howell responded that he did contact them and stated that their vote should be withdrawn. He is unaware if this has been done or not. Mr. Ford added that he will follow up on the status.

Nicole Libby was present remotely and said that she would hold her comments until there is a project in front of the Board.

B. Discussion and possible vote – Interim Town Administrator’s Goals and Objectives

Mr. MacAskill stated that he has no intention of holding this discussion up and that he would email his comments to Mr. Ballantine. When he looks at the goals and objectives, he feels that they are basic and that the achieved goal should be the starting point. He does not see how Mr. Powers can get anything less than achieving the goal unless he simply doesn’t complete the goal.

Mr. Powers said that his contribution to this document are the headlines from his job description. The first measure under the first goal is what he added and that all of the other goals came from the draft goals that the Board was working on over the summer and into the fall.

Mr. Howell stated that the only place he disagrees is that you can fail with the budget. We have struggled this with the previous Town Administrator. You can fail by not wanting to go along with the goal that the Board establishes. He feels uncomfortable rating Mr. Powers on what the Board has not established on what defines success.

Mr. McManus feels that we have constantly have problems with terminology and that coming up with measurability in some of these goals is still tricky.

Mr. Ford stated that you need to look beyond the words of the goal and look at how a person delivers. His expectation sit that each Board member would be commenting on how Mr. Powers delivers results. He doesn’t see the previous scoring system as being effective in any way. Mr. MacAskill agreed and asked if Mr. Powers would be comfortable with basic parameters or if he would like more defined actions and deliverables. Mr. Powers responded that the agreement that was executive on September 1 between himself and the Board requires both parties to collaborate on the goals. This process works for him because it is supposed to be a dialogue with everyone.

Mr. Ballantine requested that if any Board members have comments, that they email them to him.

The Board continued to have a discussion on how to best move forward with any revisions to the evaluation that need to be made.

Mr. McManus moved that the Board approve the proposed performance management plan for the Interim Town Administrator, 2nd by Mr. Howell. The vote was 4-1-0 with Mr. Ballantine, Mr. Howell, Mr. Ford & Mr. McManus voting aye and Mr. MacAskill voting nay by roll call.

Mr. McManus commented that he has questions about some of the terminology but wants to move forward and work with this for this year.

C. Discussion on Chapter 7 Section 7.8 Article A of General Bylaws – Appointment of Town Counsel

Mr. Howell asked for this to be an agenda item because he has not been impressed with John Giorgio’s representation of us for our counsel. He sees an issue with him also representing DHY as well as another town. Mr. Howell would like to have a fuller conversation on where we are going.

Mr. Ballantine would like to have this on for future discussions.

Mr. MacAskill suggested having this as a legal discussion under Executive Session. He does feel that Mr. Giorgio has represented the town well over the years. Whether or not we go in a different director is something else.

Mr. McManus commented that he has never been dissatisfied with the way that Mr. Giorgio has represented the town.

D. Discussion – Interim Town Administrator’s Procurement process roll-out

Mr. Powers reported that he is scheduled for procurement classes to finalize his certification process as a certified procurement officer. Mr. Powers reviewed the documents that were provided in the Board’s packet as well as the procurement and tracking process.

Mr. MacAskill moved that the Board approve the Interim Town Administrator’s Procurement process rollout including the memo from Chief Procurement Officer recommending the approval on projects over \$10,000, 2nd by Mr. Howell. The vote was 5-0-0 with Mr. MacAskill, Mr. Ballantine, Mr. Howell, Mr. Ford & Mr. McManus all voting aye by roll call.

Mr. McManus wanted to confirm that purchased under \$10,000 would be completed by department heads. Mr. Powers responded that theoretically yes they would. He has not had a chance to meet and finalize details with the Finance Director. He will be asking department heads to make administration aware of procurement that they have made.

Mr. MacAskill made a strong emphasis on wanting everyone that will be involved in procurement to take the procurement class.

Mr. Howell agrees that this has been a mess for a long time. The previous Town Administration seemed to take the position that everything fell under 30b. He wants to make sure that we are transparent and provide more information about contracts.

CONTRACTS

Mr. Powers asked the Board to hold off on items a & c.

- A. Discussion and possible vote for the Board of Selectmen to execute contract with Champion Salt, LLC for road salt for the Department of Public Works for a unit cost of \$49.63 per ton and not to exceed total sum of \$99,260.00
- B. Discussion and possible vote for the Board of Selectmen to execute contract with Specialty Vehicles, Inc. for the purchase of an Ambulance for the Fire Department for \$329,905.00

Mr. MacAskill moved to approve the execution of a contract with Specialty Vehicles, Inc. for the purchase of an Ambulance for the Fire Department for \$329,905.00, 2nd by Mr. Howell. The vote was 5-0-0 with Mr. MacAskill, Mr. Ballantine, Mr. Howell, Mr. McManus and Mr. Ford all voting aye by roll call.

- C. Discussion and possible vote - West Harwich Route 28 Massachusetts Department of Transportation, Transportation Improvement Project Design Contract Time Extension with VHB

TOWN ADMINISTRATOR’S REPORT

Mr. Powers asked the Board to give consideration in foregoing their November 30 meeting. This is the week before Thanksgiving and will only allow staff 2 days to work on anything that might come before the Board.

Mr. MacAskill moved to approve the request to forego the November 30, 2020 Selectmen’s meeting, 2nd by Mr. Howell. The vote was 5-0-0 with Mr. MacAskill, Mr. Ballantine, Mr. Howell, Mr. McManus and Mr. Ford all voting aye by roll call.

Mr. Powers advised the Board that his staff sent notice to all annual license holders for the service of alcohol. They have heard back from an establishment asking for the Board to consider reducing or waiving the application fees. He advised the requestor that waiving or reducing the fees would require a public Board of Selectmen

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hearing. If we use the Chronicle for posting, the ad would have to have been submitted today. The other option would be to advertise in the Cape Cod Times.

Mr. Ballantine asked why the request was made. Mr. Powers responded that the establishments are claiming a hardship.

Mr. MacAskill thinks that this needs to be a full conversation with the Board. If the Board wants to consider these requests, then back up information needs to be provided. Establishments might need to show a hardship other than just the pandemic. He feels that the Board has been exceedingly nice to the businesses. He would want to see some sort of loss revenue projection for a budget that has already been voted.

Mr. McManus acknowledged that we are running up on a time close on these issues but he isn't sure that it wouldn't be impossible to collect information and have a hearing, even if the hearing is after the license renewals are granted. If the Board meets and feels that there is enough of a case made for reduction or waiver, refunds could be granted.

Mr. Ballantine agreed to put this on as an agenda item for next week to figure out next steps. Mr. Powers asked what kind of information he should be asking establishments for. Mr. McManus responded that he would like to know what impact has been made on the establishment for the Board to consider their request

Mr. MacAskill would like to see if any other communities are doing this. Mr. Howell responded that Chatham is talking about individual hardship cases.

Mr. Powers reported that the Town Engineer heard back from DOT regarding the topic of a sidewalk from Saquatucket Harbor to Harwich Port. The project may be eligible for the TIP program.

Mr. Powers stated that the 6 new houses on Murray Lane have been added to the Harwich subsidized housing inventory.

SELECTMEN'S REPORT

Mr. Howell would like to circle back to have CVEC discussions about the Community Center.

Mr. Powers reported that there was a situation on Saturday about a shut down at the transfer station that impacted one of the busiest days. The DPW Director's team was able to collaborate and make sure that there was no impact to the trash and recycling services for the general public. Mr. Powers read the memo from the packet and noted that letters of commendation would be issued.

Mr. Howell stated that a vote was made a town meeting to convey the authority to the Selectmen to disperse funds from the flag pole that was going to be done on a yearly basis. He would like to see this on an agenda for the current year.

A couple of weeks ago, Mr. McManus announced the Lower Cape Kiwanis Clubs sock collection. Mr. McManus thanked the public who donated over 250 pairs of socks. He thanked the businesses that were involved. The club will be putting together an announcing an additional collection for coats and sweaters.

Mr. Ford reminded everyone to get out and vote.

ADJOURNMENT

Mr. MacAskill moved to adjourn the meeting of the Board of Selectmen, 2nd by Mr. Howell. The vote was 5-0-0 with Mr. MacAskill, Mr. Ballantine, Mr. Howell, Mr. McManus and Mr. Ford all voting aye by roll call.

Respectfully submitted,
Jennifer Clarke
Recording Secretary
Board of Selectmen
November 2, 2020