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**MINUTES
SELECTMEN'S MEETING
TOWN HALL
MONDAY, DECEMBER 19, 2022
6:00 P.M. - REGULAR MEETING
REMOTE PARTICIPATION OPTIONAL**

RELEASED

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

ALSO PARTICIPATING: Town Administrator Joseph Powers

CALL TO ORDER

Mr. MacAskill called the meeting to order at 6:00 p.m.

PUBLIC COMMENTS/ANNOUNCEMENTS

Mr. Ballantine announced the passing of Brian Howes. Mr. Howes was the director of the UMASS Estuary Project and was the one that helped determine how much of Harwich would need to be sewerred. With Mr. Howes input and discussion, our Comprehensive Wastewater Management Plan was developed to sewer half of Harwich rather than 100%. Mr. Howes will be sorely missed.

Harwich Chamber of Commerce Executive Director Cyndi Williams was present and reported that the Festival of Trees collected \$12,540 that will be donated to the Family Pantry of Cape Cod. Ms. Williams presented the cover of the 2023 Harwich magazine. The theme will be reflecting on Harwich's 7 villages while sharing the past, present and future of Harwich in many of the articles.

DPW Director Lincoln Hooper was present and announced that Department of Transportation has finally called for the sidewalk project on Route 28. Back in 2014, it was the desire of the Selectmen to build a side walk along Route 28. There will be a design public hearing held on January 17, 2023 from 6:00 p.m. – 8:00 p.m. in the multi-purpose room at the Community Center, with a 2nd design public hearing scheduled for January 24, 2023 from 6:00 p.m. – 8:00 p.m., also at the Community Center. This is a standalone project to build a sidewalk on the south side of Route 28 which will run from the Dennis town line to the Herring River bridge. This is a joint project with the Town of Dennis that will help clean up the intersection at the town line. DOT will be accepting comments for 10 business days after the public hearings. Mr. Ballantine commented that one of the public hearings will likely be on the same date as a Selectmen's meeting. He asked the Board to consider starting their meeting an hour late that night so that Board members can attend at least part of the public comment session. The Board agreed to start their meeting an hour late.

aware that the school funds impacted on the free cash number so much as the delta between estimated receipts and actual receipts.

Finance Director Ann Marie Ellis was present and stated that the school amounts effect FY23, not FY22.

Mr. Howell said that the problem that he has is that free cash seems like the express track to buy things. Free cash we know is not free and at some point, there was discussion about returning some of the money to the tax payers. Mr. Howell went on to say that he cannot support this as a recurring theme to have this amount of free cash. Ms. Ellis agreed. Mr. MacAskill noted that there is a recommendation in the packet from the Town Administrator, but that nothing has been discussed.

Mr. Powers cautioned everyone to remember that the biggest source of free cash is the delta between estimated revenues and actual revenues. When we had the summer that we had with great weather, with sunshine comes money.

Mr. MacAskill stated that the Board will be taking this up many more times before the budget.

B. Vote to send a letter per resident request to Massachusetts Department of
Agriculture (MDAR) requesting non-use of Glyphosate

Patrick Otton was present and stated that MDAR is soliciting public comment on Eversource's 5-year vegetation management plan. He is asking that the town write to MDAR with their reaction response to the plan. The full plan is available on Eversource's website. Comments on the plan can also be submitted by mail or email to. Mr. Otton stated that the Environmental Protection Agency says that there are no concerns for human health in using glyphosate products, but that if you look at the science, there is a lot going on. Mr. Otton went on to review what scientific information he had as well as another reference book called Toxic Legacy. He added that even the Boston school system has banned the application of herbicides on school properties. The application of herbicides is a much regulated process and should be applied by licensed professionals. Mr. Otton stated that so far, 10 town on Cape Cod, including the Barnstable County Assembly of Delegates have submitted letters to MDAR requesting that the proposed plan not be accepted as written. Mr. Otton stated that there are less toxic options for vegetation management and also suggested that property owners should take care of the properties and possible include garden clubs or school clubs.

Mr. Otton is asking that the Board care for the health and wellbeing of our 13,000 residents and submit comment to MDAR asking that the plan not be approved as submitted.

Water/Wastewater Superintendent Dan Pelletier was present and stated that we have already started conducting sampling for glyphosates back in November. The first samples came back with no detection of glyphosate or its metabolite. As soon as all of the results are available, they will be published. Mr. Pelletier referenced a study that was done during 2018-2021 where 4 wells

Ms. Kavanagh went on to say that is being approved by the Conservation Commission. She agreed with Mr. Pelletier and that if we see symptoms in our water, then we have a problem, but until then, without the proof, it isn't there.

Mr. MacAskill stated that if you walk the easements, most of them are taken care of by the property owners. When the licensed professionals show up to do the work, owners can talk to them. Mr. MacAskill would feel more comfortable with the licensed professionals applying the products in the right of way rather than the homeowners. He added that this seems to be a fight beyond Cape Cod and does not see the point in going after Eversource. Mr. MacAskill suggested that maybe this belongs at the state level rather than locally.

The Board took no action.

C. Discussion and vote on the Board of Health request on fertilizer petition

At their November 15, 2022 meeting, the Board of Health voted to ask the Board of Selectmen to petition the state to return authority of regulatory control back to the Town of Harwich.

Water/Wastewater Superintendent Dan Pelletier was present and gave his thoughts on why control should not be returned to the town. From a water quality stand point, he has concerns about the alternatives to fertilizer. He added that the predominant natural alternative is milorgante or other bio solid brands derived from products which are made from wastewater treatment plan residuals and have been found to contain polyfluoroalky substances. We also don't have clear information from the state as to how they could credit a reduction of fertilizer use. Without a financial benefit, Mr. Pelletier is concerned with the alterative and might leave us open to a worse situation.

Tom Birch was present and provided the Board with a copy of his letter. Mr. Birch has been in landscaping for over 40 years and in all of his knowledge and he doesn't see that fertilizer is causing the problem as it is not leaching into the soil and groundwater. Mr. Birch feels that the septic systems and Title 5 are the larger issue. Instead of having control turned back over to the town, Mr. Birch suggested that the town take an educational approach. He feels that the state knows what they are doing and that control should be left with them.

John Sennott was present and stated that he has held a pesticide applicators license for the last 40 years. He feels that the state has been doing a good job and that the town should not be involved. There is no possible way that enforcement of fertilizer use will be possible.

Lindsay Strobe from Cape Organics was present and thinks that it is incumbent upon the Board to look at what exists presently with regards to a regulation. Mr. Strobe stated that there are buffer zones to protect resource areas. He added that it might be best for the town to teach best management practices. Mr. Strobe commented that many professionals would be happy to sit down with the boards to help promulgate regulations that are in the best interest of everyone, adding that we don't have a fertilizer problem, we have a people problem.

The Board took no action.

D. Update on Annual Town Meeting Article related to Owners Unknown

Mr. Powers stated that a working group has been assembled that relates back to article 39 from 2022 Annual Town Meeting. Town meeting had appropriated \$500,000 for the purposes of getting a handle on owner's unknown and undesignated parcels. A meeting was held on December 9 with the Interim Assessing Director, Assistant Town Administrator and Finance Director where they reviewed a description of the items as per the article. The Interim Assessing Director is working on an overall plan for the properties.

Mr. MacAskill asked who is working with the group moving forward. Mr. Powers responded that his recommendation is to work through staff to identify resources that we can avail ourselves of which would include title research and having an engineer and surveyor on staff. A broader discussion can be had at some point in time after more information is obtained. Future discussions may include Real Estate and Open Space Committee as well as other groups.

Ms. Kavanagh likes the plan to move forward and asked if there is any estimated time on hiring an engineer and surveyor. Mr. Powers responded that he should know more this week.

Ms. Anderson commented that we have made some progress with the sale of some parcels. Mr. Powers agreed and stated that we got more return than staff expected. Since this topic was initially brought up, the Assessing Department has made great strides on owners unknown. Now that word is on the street, we are seeing more people paying attention.

Richard Waystack was present and wanted to make sure that all members of the Board received a copy of the memo that was submitted. The Board of Appeals has made a modification on one of their policies where they not only required a deed for the property, but an engineered stamped plan before a property could be assigned a map and parcel number. They have backed off on that as a result of discussions from the Department of Revenue. As soon as the Assessing Department is back to full staffing, they will be able to pick up momentum.

Mr. MacAskill noted that the memo submitted also includes a request for additional staff. Mr. Waystack responded that the Board of Assessors deals with regulation and policy and that they have nothing to do with the operation of the department. They are simply looking at full staffing, noting additional.

Mr. MacAskill stated that he asks for weekly updates on progress regarding article 39. A lot of what needs to be done with the owners unknown is to put boots on the ground and find the properties. His ask is that it is time do to procurement and hire people to find these properties with the help of the Assessing Department and the finalize them. He added that there will probably be follow up articles to get this done and will take multi-years to fix issues.

E. Vote to appoint the Town Administrator as the voting delegate for the MIIA Annual Members Business Meeting held on 1/21/2023

Sunday 6:00 p.m. to 11:00 p.m. inside - Live/recorded music, amplification, dancing by live performers, trivia

2022 approved license

Weekday 7:00 p.m. to 12:00 a.m. inside – Live/recorded music

Sunday 5:30 p.m. to 9:00 p.m. inside – Live/recorded music

Mr. Howell noted that there are differences in some areas of the request, but we have never had any complaints and that this is a responsible location. He does not see any problems in granting what is being requested.

Mr. Howell moved to approve the 2023 Weekday and Sunday Entertainment License renewal – Ashwood Food Service Inc. d/b/a Jake Rooney’s – 119 Brooks Road; 2023 request, Weekday 6:00 p.m. to 12:00 a.m. inside – Live/recorded music, amplification, dancing by live performers, trivia & Sunday 6:00 p.m. to 11:00 p.m. inside - Live/recorded music, amplification, dancing by live performers, trivia, noting that any previous license conditions apply, 2nd by Ms. Anderson and approved 5-0-0.

L. Vote to approve the Committee Appointments recommended by the Interview Committee:

1. Harry Munns – Planning Board – Alternate Member – Term to expire June 30, 2024
2. Michelle Ryan – Golf Committee – Full Member – Term to expire June 30, 2025
3. John August – Board of Appeals – Alternate Member – Term to expire June 30, 2025

Mr. Ballantine moved to approve the committee appointments as recommended by the Interview Committee as listed above, 2nd by Ms. Anderson and approved 5-0-0.

M. Vote to approve the Town Administrator as the Harwich representative to the Cape Cod Regional Transit Authority (CCRTA)

Mr. Howell asked if there would be a way of getting a matrix of appointments that require staff be appointed to the County. Mr. MacAskill responded yes.

Mr. Howell moved to approve the Town Administrator as the Harwich representative to the Cape Cod Regional Transit Authority, 2nd by Ms. Kavanagh and approved 5-0-0.

N. Town Administrator to present Finding of the Facts report from Show Cause Hearing that was held on October 17, 2022

Mr. Powers provided the Board with information in the packet and copies were sent to Police Chief Guillemette, Town Counsel and the licensee’s counsel. The memo dated December 14 outlines the allegations of violations, summaries, information on exhibits and witnesses. Mr. Powers’ conclusion is that there is insufficient evidence or insufficient testimony provided that would hold up the allegations as provided. Mr. Powers’ recommendation is that the Board vote to accept the findings and consider the matter closed.

Mr. Powers stated that he can specifically outline several changes beyond that, but those are the major differences.

Mr. Howell stated that his concern is not the money, but that it is a 5-year plan that will need a 2/3 vote at Town Meeting for each and every individual addition. This is not just a plan for the town to create a plan for ourselves for the next 5 years. It is a plan for the public to try and plan on what their taxes are going to look like moving forward and create some certainty to them on what will happen over the next 5 years.

Mr. MacAskill asked if it would be worth revisiting an article for Town Meeting that would clarify things further. He is looking to avoid a potential disaster and agreed that transparency and planning is very important.

Mr. Powers emphasized that the FY24-FY28 document is a draft and that it sits waiting for comment from the Selectmen and Finance Committee. It is entirely possible to reshape it to what it was in years past, which he thinks would be unfortunate. In an effort to create greater transparency, we are now looking at a plan that could be hung up on a technicality. Mr. Powers added that he has every confidence that what the department heads have presented, what the Capital Outlay Committee vetted and what is being presented to the town is an accurate and clear depiction of what we need to do in years going forward.

Mr. MacAskill asked how we fix any problems and who needs to be involved. He is not interested in looking backwards and is interested in looking at the 134 day timeline until town Meeting to talk about what makes sense and what doesn't. The town elects the Board and the Town Administrator is hired by the Board. He would hope that there is a level of trust in what goes on. Mr. MacAskill added that the Bylaw Charter Review Committee should be involved in these discussions.

Mr. Howell stated that this discussion is about a plan and not any person that was involved with their creation. He would be happy to be part any and all discussions that need to be had.

Mr. MacAskill wondered if the Capital Outlay Committee Chair, a representative from the Selectmen and the Chair of the Bylaw Charter Review Committee should review and try to iron out any issues. Mr. Powers responded that the Capital Outlay Committee has done their work and evaluated 84 individual applications that created the 5 year plan as it is being presented. This is a procedural matter where by the successor Bylaw Charter Review Committee had started on this endeavor and quit. Mr. Powers has asked for several years for a Bylaw Charter review. This is a question between them and the Selectmen to decide if they are going to object to the capital plan as presented based on their understanding of the charter.

Mr. Ballantine stated that he would like to be part of the discussions. Mr. MacAskill responded that it would be a joint meeting.

Ms. Anderson asked for clarification on what the controversy is. Mr. Howell responded that it is not that the dollar value has changed, but that it is things are moved around in the plan or have been added to the plan that were not part of previous years plans. This was supposed to be a Board of Selectmen

the inside of the building looks like and then assign spaces to people, or if the plan that has already been done is enough. This is a municipal building that is controlled by the Board of Selectmen through the Town Administrator. Mr. MacAskill feels that the Town Administrator through the Cultural Center department head has done an excellent job in building a plan.

Ms. Anderson stated that she is perplexed as to why the Finance Committee wants to have a business plan and a strategic plan for this building, when we don't have these plans for any of our other municipal buildings. She added that this is a municipal building with a cultural aspect to it.

Mr. MacAskill noted that what the Finance Committee hasn't done is look at the cost of doing nothing, which is a very real number.

Ms. Kavanagh stated that there are numbers out there that are not mentioned. To her, this is not something that we have to go hard core and assign anything more than what our cultural director is looking at and what opportunities can be brought in. This building is a town asset and she does not see the need for architectural plans and fixating on who is going where. Let's leave the plan flexible.

Mr. Howell commented that the 204 Sisson Road building is 3 years newer than Town Hall. He added that the building was not properly closed up when everyone moved out and it was left a dark, moldy place where pipes were leaking. Mr. Howell feels that it is clear that there is a need for this building and that people have started to clamber for it to be used. It has the possibility to have some if not all of Town Hall activities in it and still include cultural activities. The property is a robust site and located across from the Public Safety building. Mr. Howell added that the building is open and successful and that it can be improved to make sure that it is a welcoming place.

Mr. MacAskill stated that the next meeting will be for the Board to discuss what they do or don't want to consider.

Mr. Ballantine commented that he initially argued that the space should be used for affordable housing and that tearing down the building is not a discussion worth having. He would have a hard time looking at architectural plans at this time because it is a moving target. Mr. Ballantine would like to try and figure out how to make this location the best thing it can be.

Mr. MacAskill stated that this is a municipal building that is being used and enjoyed by a lot of people. The building has tremendous growth potential because of its square footage.

Mr. Powers said that he will not put together a plan to design a building that will be a money pit. Mark Kelleher was present and spoke as a resident. He feels that the costs presented are an understatement and that it would be helpful to have a professional engineering study that would outline all of the costs and needs of the building going forward for 5-10 years. Mr. Kelleher feels that a professional study would help the Board make decisions and go before Town Meeting. He did state that Mr. Hooper and his team have done a tremendous job, but that they have merely highlighted what a big job it is. Mr. MacAskill asked Mr. Kelleher to email his comments to him.

group. The future of this building rests with the cultural activities and possibly more government offices. If a working group is formed, Mr. Howell does not want to be part of it.

Ms. Anderson and Ms. Kavanagh agreed that they didn't see the need for this group.

Mr. MacAskill feels that we have a working group already.

CONTRACTS

- A. Vote to approve a three year contract for Municipal Solid Waste Disposal with SEMASS Partnership. The acceptance fee for the first year of the agreement shall be \$106.00/ton and the following two year's shall be subject to increase according to the Consumer Price Index as outlined in Appendix A of the contract.

Lincoln Hooper was present and reported that he spoke with the Director of SEMASS. They are aware that waste comes from other places, not just Harwich. Mr. MacAskill wondered why they wouldn't strike that language from the contract if they don't care about it.

Mr. Howell moved to approve a three year contract for Municipal Solid Waste Disposal with SEMASS Partnership. The acceptance fee for the first year of the agreement shall be \$106.00/ton and the following two year's shall be subject to increase according to the Consumer Price Index as outlined in Appendix A of the contract for Selectmen signature, 2nd by Ms. Anderson and approved 4-1-0 (MacAskill opposed).

- A. Vote to authorize the Chair to sign the Fiscal Year 2023 Local Cultural Council Allocation Contract

Mr. Howell moved to authorize the Chair to sign the Fiscal Year 2023 Local Cultural Council Allocation Contract, 2nd by Ms. Anderson and approved 5-0-0.

- B. Vote to authorize the Chair to sign the Fiscal Year 23 Firefighter Safety Equipment Grant Award

Mr. Howell commented hats off to the Fire Department in doing the most aggressive grant work to make sure that the residents don't have to pay for everything.

Fire Chief David LeBlanc was present and reviewed the grant request which will be used to purchase ballistic equipment for the department.

Mr. Howell moved to authorize the Chair to sign the Fiscal Year 23 Firefighter Safety Equipment Grant Award, 2nd by Ms. Anderson and approved 5-0-0.

TOWN ADMINISTRATOR'S REPORT

Mr. Powers wished everyone a joyous holiday season and a happy and healthy new year.