

RELEASED

MINUTES
EXECUTIVE SESSION
SELECTMEN'S MEETING
GRIFFIN ROOM, TOWN HALL
MONDAY, AUGUST 20, 2018
6:00 P.M.

APPROVED

SELECTMEN PRESENT: Ballantine, Howell, Kavanagh, McManus, MacAskill

OTHERS PRESENT: Town Administrator Christopher Clark, Assistant Town Administrator Evan Melillo, Health Director Meggan Eldridge, Cynthia Bayrel, Frank Boyle, Board of Health Chairwoman Pamela Howell, Senior Claims Representative William MacKinnon from MIIA, Town Counsel John Giorgio, Building Commissioner Ray Chesley, Conservation Administrator Amy Usowski, Health Board Member Mark Coleman.

Mr. McManus moved to go into Executive Session Pursuant to M.G.L. c. 30A, § 21 (3) to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares. Mr. Howell seconds. Health Board moves to go into Executive Session by roll call vote.

Lawsuit- Health Board

Mr. MacKinnon provides an overview of the lawsuit and advises moving the case to federal court. Mr. Clark asks Mr. MacKinnon whether he would file and answer for us, to which MacKinnon replies affirmatively. He also requests tapes from Boards, and states that he will come back to Harwich with recommendation. Ms. Kavanaugh then asks whether Mr. Viprino was denied by Conservation, to which Ms. Usowski confirms that he was. Mr. MacKinnon then advises Ms. Usowski that she should not comment on pending legislation. Mr. MacAskill asks how long the appeal might take, to which Mr. Giorgio responds that it could take one or two years.

Mr. MacKinnon indicates trying to move case to Federal Court. They might not take up the case since they would only resolve federal issues and would keep the rest in State Court. Mr. Howell mentions that if you look up Right to Farm bylaw, he has multiple parcels and his right to farm is delineated by each parcel. Mr. MacKinnon states that this a good reason to go to Federal Court. Ms. Kavanaugh asks if everyone is okay with moving on, and the Health Board adjourns the meeting. Mr. MacKinnon advises when he will keep all parties informed of status.

Open cases

Mr. Giorgio provides an overview of the fourteen open cases and discusses Conservation-issued enforcement order which was appealed in King v. Conservation. Ms. Usowski mentions that they thought that there was an agreement for a conservation restriction, but that does not seem to be his understanding. Mr. MacAskill asks if it can be settled since it has been back and forth for a year, and Mr. Giorgio mentions that while they are in discussion for settlement, litigation is continuing. Ms. Usowski mentions that they are looking to have another settlement meeting for this case.

Mr. Giorgio brings up number ten on the agenda, Jones v. Harwich, which is now going to the

jury. Mr. McManus asks where it was, and Ms. Usowski mentions that it is at 5 Sea Street Extension, and gave a history of the case, while stating that there was no way to permit the project.

Mr. Giorgio then gives overview on numbers three and four on the agenda (DeSimone and Trustees of the DeSimone Family Living Trust v. Town of Harwich and through the Harwich Board of Selectmen; Eldredge, et al. v. Town of Harwich, et al.). Mr. Howell mentions that paying taxes does not establish ownership, just land court. Mr. Giorgio continues with number seventeen on agenda, which involves sand rights, and he provides an overview for this case. Mr. MacAskill asks when the Town will foreclose on Viprino, and Mr. Clark states that he will investigate further. Mr. Giorgio states that the Town may want to see how the current case is going.

Mr. Dan Pelletier joins for Water Union Discussion.

Water union

Mr. Clark provides overview of new Water Union contract. FY19 stayed the same, then market adjustments were made to certain positions. There is also now promotion process planning included. This moved certain positions to the middle range. More management rights were provided to Town: under discipline and discharge the probation period was increased from 6 months to year, Superintendent gets to make decision on who will be replacement at on-call, on-call personnel was increased from 6 to 8, longevity was allowed to provide per week instead of lump-sum, advertisements for positions will now be simultaneous to union, previous stipends were removed as they're now built-in, Health insurance language was also added from SEIU and HEA, job descriptions were also updated, Union has voted and signed, Water Board has voted and signed, so if this Board would sign this would be complete. Mr. MacAskill mentioned that they have not signed it yet, while Mr. Pelletier mentions that they have voted on the proposed contract. Mr. Ballantine moves to accept new contract contingent to ratification of Water Union, to which Mr. McManus seconds. The vote is unanimous. Mr. McManus moves to accept job description contingent to signing, to which Mr. Howell confirms that we will accept it as done by Town Administrator. A motion is made to accept this motion, which is unanimous.

Mr. MacAskill moves to accept June 4, 2018 Executive Session minutes, which Mr. Ballantine seconds the motion, and the vote is unanimous. A motion is then made by Mr. MacKaskill to end Executive Session, which is seconded by Mr. Ballantine, which carries a unanimous vote.

Respectfully submitted,

Evan N. Melillo
Assistant Town Administrator

Kevin Rutherford
Administrative Analyst