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MINUTES
SELECT BOARD
HARWICH TOWN HALL
MONDAY, JULY 24, 2023
5:15 P.M. – EXECUTIVE SESSION
6:00 P.M. - REGULAR MEETING
REMOTE PARTICIPATION OPTIONAL

SELECTMEN PARTICIPATING: Mary Anderson, Julie Kavanagh, Donald Howell, Michael MacAskill and Jeffrey Handler

ALSO PARTICIPATING: Town Administrator Joseph F. Powers

CALL TO ORDER

Ms. Anderson called the Select Board's meeting to order at 5:15 p.m.

Mr. Handler moved that the Select Board enter into Executive Session as listed below, 2nd by Mr. Howell. The vote was 5-0-0 with Ms. Anderson, Ms. Kavanagh, Mr. Howell, Mr. MacAskill and Mr. Handler all voting aye by roll call.

Mr. MacAskill requested that the Chair work with the Town Administrator to facilitate the Select Board being able to stay in the Griffin Room for their future Executive Session meetings, rather than using the Select Board's Library.

EXECUTIVE SESSION

- A. Pursuant to G.L. c. 30A, sec. 21(a)(3) To discuss strategy with respect to litigation as the Chair has declared that an open session may have a detrimental effect on the litigating position of the Town. In addition to a general discussion of litigation matters, the following cases may be discussed:

Bogen v. Guillemette, Chief of Police of the Town of Harwich; Town of Harwich Conservation Commission v. Smith; 3137, LLC, et al. v. Town of Harwich, et al.; Ember Pizza, Inc., et al. v. Town of Harwich, et al.; Ember Pizza, Inc., et al. v. Town of Harwich and ABCC; Port v. Harwich Local Licensing Authority; Seal Pub v. Harwich Local Licensing Authority; Hall's Path Enforcement; Jeffrey E. Jones, et al. v. Town of Harwich, et al.; Jones v. Harwich Board of Health and

Town of Harwich; King and James M. Kelly v. Harwich Conservation Commission; King and Kelly v. Walter Diggs et al. and the Harwich Conservation Commission; Michael LeBlanc and Sheila LeBlanc, Trustees of the Radar Realty Trust v. Harwich Conservation Commission; McCourt, et al. v. Town of Harwich Zoning Board of Appeals, et al.; Novak v. Town of Harwich Conservation Commission; Walsh Brothers Building Company, Inc., et al. v. Harwich Conservation Commission, and Town of Harwich; Winston and Plunkett v. The Planning Board and the Royal Apartments LLC, et al

Wise v. Harwich Planning Board

- B. Pursuant to G.L. c. 30A, sec. 21(a)(2) to conduct strategy sessions in preparation for negotiations with non-union personnel and to conduct contract negotiations with non-union personnel: Town Administrator

Ms. Anderson called the meeting back to order following Executive Session. No decisions were made on Executive Session item A and no discussion was had on Executive Session item B.

PUBLIC COMMENTS/ANNOUNCEMENTS

Harwich Chamber of Commerce Executive Director Cyndi Williams was present to report on Wednesday's Port Summer Nights. This Wednesday there is an extra special event where people can purchase a ticket to win a chance to drive in the Seaside Lemans. Tickets are \$50.00 and the winner will be drawn on September 9. Also on Wednesday, Firefly Boutique will be having a summer trunk show.

Mr. Powers reported that this afternoon, representatives from Mass Department of Environmental Protection held a TEAMS call with Town Managers and Town Administrators from the South Coast, Cape Cod and the South Shore. This was to make the public aware that they have made a tentative determination to deny the application as submitted by HOLTECH regarding their request to discharge waste from the Pilgrim Nuclear Power Station into Cape Cod Bay. There is now a period of public comment that will run through August 28, 2023.

PUBLIC PRESENTATIONS/PUBLIC HEARINGS

- A. Public Hearing - Approve the Alteration of Premises application submitted by Cape Roots Market LLC d/b/a Cape Roots Market and Café location at 557 Route 28. Alteration consists of adding additional interior and exterior seating.

Mr. Handler read the legal notice.

Gabe and Brooke Leidner were present.

Mr. Handler moved to open the public hearing, 2nd by Mr. Howell and approved 5-0-0.

Richard Waystack was present and stated that he is a direct abutter to this property. The Leidner's have done a great job with this building. He noted that they are looking to increase some seating and are not looking to become a bar. Mr. Waystack said that this building faces the same parking woes as everyone else downtown. Mr. Waystack encouraged the Select Board to approve this application request.

Mr. MacAskill moved to close the public hearing, 2nd by Mr. Howell and approved 5-0-0.

Mr. MacAskill moved to approve the Alteration of Premises application submitted by Cape Roots Market LLC d/b/a Cape Roots Market and Café location at 557 Route 28. Alteration

consists of adding additional interior and exterior seating, 2nd by Mr. Howell and approved 5-0-0.

Mr. Howell wanted the application to know that the public in general loves Cape Roots and that he wishes them well.

JOINT MEETING WITH THE SELECT BOARD AND BYLAW CHARTER REVIEW COMMITTEE

A. Discussion on letter dated June 13, 2023, from Bylaw Charter Review Committee addressed to the Select Board

Linda Cebula called the meeting of the Bylaw Charter Review Committee to order. Present were Linda Cebula, Sandra Hall and Anita Doucette.

A letter dated June 13 was submitted to the Select Board. Ms. Cebula stated that this conversation is so that her committee can get clarity as to when the Bylaw Charter Review Committee can have access to some of the \$75,000 funds that were passed at the October 2022 Special Town Meeting. They have discussed at a previous meeting how they would like to go forward.

Mr. Powers stated that in the motion that was adopted, the article was restricted to only charter and general bylaw review.

Mr. MacAskill said that he has read the letter submitted and that he has a different take on this and knows that there are 2 processes. Right now, we would have to have an elected group, if we are looking to have an independent set of eyes on the charter. While he does support hiring a consultant, he does not support hiring a consultant for the current charter by law review. He would like a consultant to look at the charter first and then make recommendations. Mr. MacAskill is not in favor of just handing over money for the Bylaw Charter Review Committee to hire a consultant and start the process.

Ms. Kavanagh didn't disagree with Mr. MacAskill and said that she has no problem moving forward in the process but agreed that we need someone to look at the charter from a generic point of view and then ask questions and provide suggestions.

Mr. Howell said that he doesn't know how you would be able to have someone come in under a contract and review a charter generically. There must be some context on why the town did what they did with the charter. He does not see how this can be done without a partnership of some sort. Mr. MacAskill responded that certainly the Bylaw Charter Review Committee would be involved at some point, unless the Select Board wanted to go the route of having a fresh 5 member elected board working with them.

Ms. Cebula read section 7-16-1 from the Harwich Charter and talked about how often the charter should be reviewed. She noted that there is a way that we can all work together and that the charter clearly says that the Bylaw Charter Review Committee is supposed to be reviewing the charter and making recommendations. A concept that was talked about at a previous meeting was that

there would be a consultant to support the review and that each committee member would be assigned sections of the charter for an in-depth review. They would then hold 2 public hearings to gain input from the community. Input would also be requested from the Select Board, Town Administrator, Town Clerk and the various boards and committees. The committee is looking to know where the Select Board would like to go before a consultant is hired for this review.

Mr. MacAskill said that he would like a fresh set of eyes on this. There has been a long-standing charter review committee except for when they took a year off. This has been discussed globally for at least 5 years with a lot of the same complaints, pointing in different directions and legal opinions. A consultant that does this for a living would be able to look at the charter and tell everyone involved where we need to go. He personally would not want to see this review come from the current committee.

Ms. Cebula said that she does think that there is more experience in looking at charters from her committee than the Select Board. In the charter itself, it says that the Bylaw Charter Review Committee should be doing this. She would like to see how everyone can work together on this.

Mr. Handler commented that he does not have a total history of the Bylaw Charter Review Committee with the Select Board but noted that we all agree that hiring a consultant would be in the best interest for the Town of Harwich and that everyone agrees that the charter needs to be looked at. He would be in favor of the Select Board and Bylaw Charter Review to come up with framework that the consultant can use to begin the review.

Mr. Kavanagh feels that everyone agrees that we need to assess where we can make the charter meld together like it is supposed to and look at the areas that might need to be revised. She would like to see us move forward on an RFP to bring a consultant on board and added that it would be important to have the consultant at the hearings. Ms. Cebula responded that Ms. Kavanagh's thoughts make perfect sense and wants to include the provision that the consultant reports go to both the committee and the Select Board.

Ms. Anderson asked Mr. Powers about a possible vendor. Mr. Powers responded that from his experience and the fact that our code book is a product of theirs, suggested General Code. He also wanted to put it out there that the amount of \$75,000 was put out there as that is his signing authority. As the Chief Procurement Officer, he does not think that we will need to use anywhere near the \$75,000 and added that an RFP might not be necessary if it does not go over \$50,000. General Code would be contact and contracted to analyze the charter and bylaws. From his perspective, this is a policy decision that starts and ends with the Select Board, that is influenced by a committee that they appoint and has an advisory requirement to the Select Board at some level.

Ms. Anderson said that when Mr. Powers explained General Code to her, it made sense as these are the people that are already involved in our code. They could do the review and make a presentation at a joint meeting for what Mr. Powers thinks would be less than \$75,000 and then we could decide if a consultant is needed to do more and if we need an elected body to do a larger review.

Ms. Cebula asked Ms. Hall if she would give a quick dissertation on what an elected charter commission means.

Ms. Hall started with the concept that was presented to them originally as they were given to understand would be a consultant to help guide the committee through the process of revamping the charter. She added that she does not know enough about General Code to make a comment either way. Ms. Hall talked about a previous consultant that was brought in through MMA. She noted that a charter commission is a 9-member elected commission that has to be initiated by a petition of 15% of the town's registered voters from the last State election. She feels that it is a difficult process to get started. Her opinion is to have a 9-person elected commission that would take 12-18 months to do the work and also to hire a consultant in the mode of what MMA has. The charter commission would have hearings and meetings and put together a document for the town to vote on. The charter commission is an independent body that wouldn't answer to the Select Board or Bylaw Charter Review Committee.

Mr. Powers reported that if a municipality is contemplating significant changes to charters and reaches out to MMA, the first step they do is put you in touch with the MMA form of government committee, which he is one of the 9 members of. MMA does not immediately recommend vendors to anyone. They rely upon the form of government committee and comes to a community to advise on next steps.

Mr. Howell said that we are entering our 10th month since this money was approved and have been complaining about this forever. He is frustrated because we are sitting here talking about how nothing is happening, while nothing is happening. Mr. MacAskill responded that there are projects on the procurement list that have been there since 2013, so 10 months doesn't seem that long. He feels that Mr. Powers suggested path to move forward with our current vendor makes sense. He would like to start with an independent party to review the charter and then make recommendations to both groups.

Mr. Handler asked what the time frame would be for the path that Mr. Powers suggested. Mr. Powers responded that there are several key considerations that impact upon procurement. Aside from this policy discussion, the only reason why he as Town Administrator did not move forward on this procurement is because of an amendment that occurred at Town Meeting last year which nullified a key compound to remove the zoning aspect of it for evaluation and this changed the tone and tenor of what was happening. There is nothing that prevents him as Town Administrator, other than intervention from the Select Board, to move forward on this.

Ms. Cebula said that the committee is happy to work together if all of the same pieces of information are shared to both parties. Ms. Anderson promised that information would be distributed to both the committee and Select Board. Ms. Cebula added that we will find that there are very defined pieces of the charter that need attention. Ms. Anderson thinks that we all have a spot here or there that needs tweaking. She asked Mr. Powers if there is any reason that they couldn't provide a joint list of items for particular sections. Mr. Powers responded that he has no objection to that request.

Mr. Handler asked for an understanding of the timeframe to move forward. Mr. Powers responded that he could start tomorrow with or without a vote of the board. If we are looking at this has a Chapter 30b of less than \$50,000 to start, he can solicit 3 quotes of any codification company, modified to say that the must have direct knowledge from the Town of Harwich. Mr. Powers added that this can be a very busy time for New England representatives.

Ms. Cebula commented that she does not see any reference to Select Board in the warrant article. Mr. Powers disagreed and pointed out the reference. The Select Board and Mr. Power as the Town Administrator have done procurement for the town. If we rely upon committees without employees, it is for advice and guidance.

Ms. Hall feels that this does seem to be moving in a good direction, however, the genesis as outlined by Mr. Powers now does not sound at all like what he said to the committee at the time when he was looking for support for the article. She noted that it was presented to them as to be supporting the Bylaw Charter Review Committee to do a top to bottom review of the charter.

Mr. Powers asked the Select Board not to take a consensus on a particular vendor tonight.

Ms. Cebula asked if it would be okay with to hold a meeting sometime in mid-September to hear comment. No members disagreed.

Ms. Cebula adjourned the meeting of the Bylaw Charter Review Committee.

JOINT MEETING WITH THE SELECT BOARD AND TRAFFIC SAFETY COMMITTEE

Linda Cebula called the meeting of the Traffic Safety Committee to order. Present were Linda Cebula, Linc Hooper and Gerry Beltis.

A. Discussion and possible vote to approve the Cross Street recommendation from Traffic Safety Committee

Ms. Cebula thanked Mr. Handler for attending their meeting. Cross Street from Route 28 to Pleasant Street is a narrow road with cars parked on both sides. When we have all of the activity that we do in Harwich Port, we end up with some parking issues. There are people that park there all day so they can go to the beach. In early 2023, neighbors on Cross Street put together a petition that they delivered to the Traffic Safety Committee, with some of their suggestions. The committee had a general discussion on July 5th to talk about the petition and come to some level of consensus on what changes might be made in the area. A memo dated July 11th was submitted to the Select Board for review. The committee did discuss something like “no beach parking” and if that would be feasible. No beach parking would require the Police Department to be watching the cars and the committee doesn’t think that the police could be expected to monitor the parking 24/7. The committee ended up voting on a “no parking” on one side of the road, to present to the Select Board.

Ms. Anderson asked if there is a Police Officer on the committee. Ms. Cebula responded that there is, as well as a representative from the Department of Public Works. Their input on the committee has been invaluable.

Chief of Police David Guillemette was present and stated that he is in full support of what the committee is presenting.

Al (last name inaudible) was present and stated that he grew up on Cross Street and that his family owns George's Pizza House. He noted that summertime is tough and while parking isn't easy, he feels that the proposal is a step backwards. He acknowledged that Cross Street is narrow, and that people don't want cars on their lawns every day, but that he doesn't see another option. There was an issue with parking 20 years ago and then they lost more parking. While we do rely on tourists, there needs to be give and take. He stated that if you have a house behind a commercial zone, obviously there are going to be people on your lawn. The speaker does not think that the proposal will help the situation and that it is a step backwards and will be bad for local business.

Brianna Woodward was present and agreed that this would be a step backwards, a waste of resources and more of a "not in my backyard" issue. For the most part, Ms. Woodward feels that 80-90% of the people parking there have a food box in their hands. The economy is based on that.

Elizabeth Harder was present speaking as a resident. She noted that Cranberry Liquors seems have good luck with keeping their 3 parking spaces open for their customers. She does not understand why the first 3 parking spaces on Cross Street, going North from Route 28, couldn't be parking only for George's Pizza. Ms. Anderson responded that the difference is that the Cranberry Liquors parking lot is privately owned where Cross street is a public road.

Bernadette Waystack was present and said that parking doesn't necessarily work at Cranberry Liquors and agreed that it is different for private lots versus public streets.

Becca Ahrensfield was present and stated that this problem was brought up because of safety on the road. People parking on lawns is not the issue here. The problem is that you cannot get down the road. There is road rage and people are parking incorrectly. Any one of the neighbors could have an emergency and an emergency vehicle could not get down the road. As far as parking, there are 3 spots next to George's Pizza that are 2-hour parking. The other problem are the delivery trucks that come down and block the road at all hours of the day. There is a parking spot next to Dune that the committee is proposing to be live parking. If that was a designated spot, 24 hours a day, that would be great. Ms. Ahrensfield proposed that the 2-hour parking spaces be reduced to 1-hour. At the end of the day, we want our community to be safe.

Spiros Christakis, owner of George's Pizza was present and said that he both agrees and disagrees with what he is hearing. He knows that safety is the issue but feels that this is not the only road in Harwich that has a problem. The problem here is parking. As a business owner, he suggested a straight line of parking on the side of the street as Reciprocity and have time limited parking on the other side and have someone monitor it, with a suggestion that the town could monitor it. Every year parking spaces seem to be lost. Mr. Christakis suggested that the town stop issuing

business licenses until the parking problem is fixed. He feels that Cross Street has been used for so many years without problem and asked how many accidents have happened on the street. No response was heard. While he is in total support of safety, he wants to see that work is done to support the businesses that in the town and that provide jobs for people in Harwich. Because of the music stroll, he suggested that instead of having people park in town, why isn't there some kind of shuttle system.

Mr. Beltis stated that when a meeting was held at the 204, a comment that he made as a private citizen was to ask people that live in the area to come up with a solution. The Traffic Safety Committee is advisory to the Select Board. The map that the committee is presenting was put together from comments of the people that live in the Cross Street area.

Richard Waystack was present and stated that he is not sure where the town owns to the end of an area on the street. A number of years ago, people were putting posts between the sidewalk and the street. When these posts were installed, people were pushed to park further in the road. Many of the posts are now impediments and if they were removed, it may allow for better parking.

Ms. Christakis suggested a one-way from Route 28 down Cross Street to Pleasant Street.

Ms. Cebula reviewed all 5 possible options that were discussed at the committee's July 5th meeting. The decision was the compromise parking option, which is what is being presented tonight.

Ms. Woodward feels that the posts are unsafe for emergency vehicles. She feels that it was counter productive for the neighbors to put up posts and then blame people for the way that they park.

Mr. Beltis asked that the Select Board go with the recommendation as presented adding that it is an easy fix for the time being and can always be changed if it doesn't work.

Mr. MacAskill feels that this is a tough situation in that George's Pizza has been here forever, but he also feels for the neighbors that are getting their cars blocked in their driveways. It seems to him based on the information if it would make sense to look at the posts and rocks that were placed on the road and remove them. He asked there is additional parking that would not interfere with residents' homes. Ms. Cebula responded that realistically, people would go down one block on Cross Street, across Pleasant Street and that the committee would be back before the Board in a year to talk about that problem. She feels that there is a real parking issue in Harwich Port overall.

Mr. MacAskill said that there would be no detriment to having a one-way road on Cross Street. He also asked that the DPW Director look at the impediments and the layouts. Ms. Cebula agreed with the one-way street with an exception for emergency vehicles.

Mr. MacAskill noted that he does plan to ask the Select Board Chair to bring back discussion about the extension of the town parking lot. As Harwich Port continue to grow, another discussion might be about shuttle buses. Mr. MacAskill added that while he cannot support what is being presented as it is, he does recognize that relief is needed.

Ms. Kavanagh was going to bring up the topic of when the town parking lot was created, there was not a site plan presented. She is not opposed to making Cross Street one-way. Ms. Kavanagh commented that one of the biggest changes that would create a lot of relief would discussion on the shuttle buses. She also asked that the DPW Director look at any impediments to the road.

Mr. Christakis wanted to make sure that this doesn't become a George's Pizza versus the residents of Cross Street issue. People are parking on this road for all the businesses downtown.

As the liaison to the committee, Mr. Handler thanked them for all their work as well as the public who participated in the meeting. He asked why the discussion of a one-way road didn't spark conversation with the committee during their public meeting. Mr. Hooper responded that during the meeting, there were a fair number of residents that said they didn't want to deal with Route 28 in the middle of summer to get to their house on Cross Street.

Mr. Handler said that it is incumbent upon the businesses that if they see a car parking in a live parking, or time restricted parking space, to call the Police Department. The Traffic Safety Committee reviewed the traffic data which did not show much for complaints. At the end of the day, there is a massive parking issue in Harwich Port.

Mr. MacAskill said that a one-way street can simply have a sign at the far end that says no thru-traffic/residents only. Increased police presence would also make sense to him.

Ms. Anderson commented that it has been made painfully obvious that we need to do something about parking. She added that there might need to be discussions with the Chamber about expanded parking in their lot. Ms. Anderson said that she would go with the committee's recommendation at this time and if a one-way street could be considered later.

Mr. Howell asked Chief Guillemette how parking on sidewalks would be viewed if every impediment was removed. Chief Guillemette responded that parking on sidewalks has always been illegal and that tickets would be issued. Mr. Howell followed by saying that the impediments could be removed, but that would only gain inches.

Ms. Kavanagh asked the committee what the time frame would be if they were to proceed with the plan as presented. Mr. Hooper responded that it would be a matter of weeks.

Mr. Handler moved to approve the Cross Street recommendation from the Traffic Safety Committee as presented, 2nd by Ms. Kavanagh.

Ms. Cebula stated that while parking issues are worse in the summer, they are a hassle year round.

Mr. Handler made the motion and said that he would support it, but wanted to make it clear that he would like to explore the one-way traffic flow pattern.

Mr. MacAskill asked if the intent of the motion is to make it permanent going forward. Ms. Anderson responded yes, until we do something differently. Mr. MacAskill said that he has spoke to 2 other businesses that have said this is not year-round problem, and he agreed with that.

Mr. Handler said that even just 6 cars can create a bottleneck. He is in support of this right now but would like to look further for a better solution.

Mr. Howell said that if this motion included an expiration date, he would consider it and then would come back to discuss further. He would not vote on this as a permanent change. Ms. Anderson responded that it can always be voted and then removed later.

Ms. Kavanagh feels that putting an expiration date on this would make everyone move forward to the next phase of a solution.

Richard Waystack was present and asked that something be done tonight for these residents. The Select Board can charge the Traffic Safety Committee to come back at the end of September with additional alterations if necessary.

Ms. Cebula said that what she is hearing is that the committee should continue to look at the street and possible come back with a different proposal. She suggested that they come back closer to December so that they have more time to see what is really going on.

Mr. Handler amended his motion to approve the Cross Street recommendation from the Traffic Safety Committee as presented with an expiration date of November 1, 2023 and that the Traffic Safety Committee report back to the Select Board with other options and for discussion on how the temporary change worked, 2nd by Ms. Kavanagh and approved 5-0-0.

B. Update, discussion and possible vote on the Route 39 and Chatham Road intersection projects

Ms. Cebula gave a brief history of the intersection. At their July 5 meeting, the Traffic Safety Committee was given no support of a proposed one-way going from Route 39 to Chatham Road. The Water Department has delivery trucks that go that way, and it would be too difficult, given their required turning radius. They did discuss briefly about whether or not they could make it a one way, except for trucks, but the decision was that it would cause confusion. Tonight, the committee s looking for action steps and if there is a plan.

Ms. Anderson asked Mr. Powers to comment on this item with respect to procurement. Mr. Powers responded that as he understands from the committee's July 11 meeting, the DPW Director will be working with administration staff to do an acquisition of engineering and surveying support. The engineering and surveying will determine what impact there will be upon the roadway itself. Then this would be added to the capital outlay plan, to then be an article at the next Twon Meeting. That would have us going out to bid for a construction type project around July 1.

Mr. MacAskill stated his disappointment that this is no further than where we were before. The consensus of the Select Board was to have this worked on and get it done. He commented that Mr. Hooper was tasked with reaching back out to the homeowner to see if they were still willing to give or sell the town a piece of land. Mr. Hooper responded that he has had 2 conversations with the owner and that they are amenable to working with the town to get the intersection sorted out. The homeowner's question is how much property is needed. Mr. MacAskill asked what is the status of the tree that was thought to be in the line of site. Mr. Hooper responded that both he and Officer Holmes looked at the tree and agreed that it is not a line of site issue. They did notice a sign that was an issue and it was moved that day.

Mr. MacAskill asked the Select Board members if it would be acceptable to wait to go out to bid on this project on July 1, 2024 or would it make sense to put in a capital request and use existing funds. Mr. Hooper responded that this was discussed at the last traffic safety meeting. He advised the board that there is 2 million dollars in Chapter 90 funds that have been set aside. If the Select Board directs them to move forward, they could get this into the works, although he recommended against using existing funds that have been set aside for drainage projects.

Mr. Beltis asked that since the Town Engineer position has not been filled, would that salary money be available for use. Mr. Powers responded that there is no money available. The town, while continuing to search for a Town Engineer, has relied upon the salary line to contract with an engineering firm, VHB.

Getting back to the Chapter 90 funds, Mr. MacAskill asked if using \$25,000 of that would be crippling. Mr. Hooper responded that it would not and added that from a year and a half ago, he had a number of \$49,900 for engineering and surveying and would have to imagine that it has gone up a little.

Mr. Handler asked what the timeline would be for the next group of grains to go in. Mr. Hooper responded that he would have a better answer later this week after an upcoming meeting. Mr. Handler asked if it would be reasonable to say in the next 6 months or so. Mr. Pelletier responded that they are looking at exploring incorporating the drainage as part of the phase 3 sewer work. Phase 3 construction is being looked at for the spring, with a 24-36 month construction sequence.

Mr. Beltis asked about a fall Town Meeting. Ms. Anderson responded that a fall Town Meeting has not been decided. Mr. Beltis suggested putting in an article for engineering. Mr. Powers responded that while the Select Board does have the right to direct a Special Town Meeting, one is not being contemplated at this time. Mr. Handler added that the Town Meeting would be in the Spring and that there could be an article to replace funds that are used now.

Mr. MacAskill moved that the town, through the direction of the Select Board, direct the Chief Procurement Officer to proceed as allowed under the procurement laws, 2nd by Mr. Howell and approved 5-0-0.

Mr. Hooper commented that engineering and surveying these days has been very challenging.

Mr. MacAskill said that this topic is very important to the Board and that it needs to be worked on right away.

Ms. Cebula thanked the Select Board for their attention to the traffic safety issues discussed tonight.

The meeting of the Traffic Safety Committee adjourned at 8:05 p.m.

Art Bodin was present and stated that he lives at 800 Orleans Road, directly across from the Chatham Road/Route 39 intersection. He feels that this issue has been going on forever and that the best solution would be to make the street one-way. Mr. Bodin commented that the truck drivers don't run the town and that it is them that cause most of the problems. The other issue on Route 39 is the speed limit.

CONSENT AGENDA

- A. Accept the resignation of Carole Ridley, Community Preservation Committee, effective immediately
- B. Vote to appoint Election Workers from names submitted by the Harwich Democratic and Republican Town Committees.
- C. Vote to appoint Noreen Donahue to the By-law/Charter Review Committee, term to expire 6/30/2024
- D. Vote to appoint Phyllis Thomason to the Recreation & Youth Commission, term to expire 6/30/2026
- E. Approve Select Board Meeting Minutes:
 - 1. July 10, 2023
 - 2. July 17, 2023
- F. Vote to designate Kathleen Barrette Finance Director/Town Accountant as the American Rescue Plan Act (ARPA) Reporter relative to the Barnstable County ARPA Application Portal

Mr. Handler moved to approve the consent agenda as presented, 2nd by Mr. MacAskill and approved 5-0-0.

Mr. MacAskill paid special thanks to Carole Ridley for her service on the committee. Mr. Howell added that she was the Harwich representative to the Community Preservation Committee and that it will be important to fill that role.

NEW BUSINESS

- A. Discussion, per section 1.16 of the Harwich Liquor License Regulations, for the June 21, 2023, alleged noise violation for Lucky Labrador, Inc. d/b/a Perks located at 545 Route 28.

Ms. Anderson stated that since this is her first liquor violation as Chair, she reached out to Town Counsel. First, the board needs to look at if there was a violation, and then use reasonable judgement about the intention.

Mr. Howell said that the board will typically refer this to the Town Administrator if a hearing is going to be held.

Ms. Kavanagh noted that she read the memo as submitted by the Chief of Police and feels that the officer that was on scene and reported the incident did a great job. Her opinion is that it was just a mix up with the music application and an honest one, adding that the establishment handled it perfectly. Ms. Kavanagh thanked the Chief of Police, the Police Officer and the person who called in the complaint, adding that she thinks it should end here.

Mr. Howell commented that we are in ongoing litigation with other establishments in the area and he would feel more comfortable if we treated these situations up front in the same manner, so everything is done equally. In the past, we have handled all these situations by referring them to the Town Administrator and changing that could set a precedent. Ms. Anderson responded that she has been told that this is not how they have all been handled and that the Chair would decide if they did or didn't need a hearing.

Ms. Anderson feels that this was clearly inadvertent and that 2 new employees that didn't realize that they hit the switch for outside speakers. Whoever the complainant was, if that person had gone next door, they probably could have stopped the noise quicker than by calling the police and waiting for a dispatch. Ms. Anderson doesn't want to burden the Town Administrator with a hearing.

Mr. MacAskill said that when he was Chair he doesn't recall every making a decision on his own about whether or not to hold a hearing. He always referred to counsel. He agreed with Mr. Howell about setting a precedent but doesn't think that this situation rises to the level of a hearing. Given the time of day of the violation and that they were found inside, not outside, he would not support bringing this forward. Mr. Howell said that he would vote to agreed but wanted to get out the rationale for not treating this the same.

Mr. Handler moved that the alleged violation as presented by the Chief of Police does not rise to the level of taking any action, 2nd by Ms. Kavanagh and approved 5-0-0.

Mr. MacAskill asked if a letter should be sent to the business outlining the comments and decision of the meeting. Mr. Powers responded that he would prefer to refer to counsel.

B. Debrief on the Select Board Working Group held on July 17, 2023

Ms. Anderson said that this session was to talk about potential zoning changes that could help increase housing. The Chair of the Planning Board, Chair of the Zoning Board of Appeals and a representative of the Local Planning Committee were present. It was a good session with brainstorming sessions. The attendees came to a consensus of 5 items to move forward with. The

first is to change the zoning code to provide the same rights to build or convert a structure to a two-family residence to the same as a multi-family residence on a non-conforming lot. The 2nd was to expand zoning for apartments over commercial buildings. The 3rd was the Vail Colorado Deed Restriction. The 4th was the Massachusetts General Laws under the zoning act, that added the 40Y, which is known as the starter home district bylaw. The 5th topic was site coverage with less impervious material. None of these items are set in stone, just discussion topics that will probably be pursued further.

Mr. MacAskill thanked Ms. Anderson for putting this together and starting the conversation, adding that these are not hidden meetings and that most towns around us also have working sessions.

Ms. Anderson said that she has been asked for another work session on July 31st to discuss items relating to committees.

Mr. MacAskill feels that it is time to have a work session relating to wastewater.

Ms. Anderson said that she was also going to propose a work session on the Monomoy formula.

C. Vote to waive the Town's Right of First Refusal for the sale of 17 Woody Glen Road formerly known as 140 Oak Street

Mr. Handler moved to waive the Town's Right of First Refusal for the sale of 17 Woody Glen Road formerly known as 140 Oak Street, 2nd by Ms. Kavanagh.

Mr. MacAskill does not think that the board should act on this tonight as there is information that has not been provided. The Town has a right to not approve this and at least have a discussion on being reimbursed for the taxes owed. Ms. Kavanagh agreed that there is not enough information. Mr. Powers said that there is a time frame element for this which is either 90 or 120 days. If the board defeats the motion, it could potentially cloud the matter.

Mr. Handler moved to withdraw his motion; Ms. Kavanagh withdrew her 2nd.

Mr. MacAskill asked Mr. Powers if he has received any further information on this. Mr. Powers responded that the Assessors have indicated that because the property in question is being removed from the chapter lands exemption 61A. The town will be assessing for rollback taxes for that portion. When the sale goes forward, there would be that rollback action taken and the town would be recouping some of the tax money that would otherwise be owed.

Mr. Howell moved to continue this until the August 7, 2023 Select Board's meeting, to be heard no earlier than 6:00 p.m., 2nd by Mr. MacAskill and approved 5-0-0.

D. Update on new Watershed Permit Regulations by GHD and Water/Wastewater Superintendent

Wastewater Superintendent Dan Pelletier was present with Anastasia from GHD. The purpose of this agenda item is to initiate discussions about the 2 new regulatory changes from MassDEP and how they will be integrated into the CWMP project. The 2 changes are the revisions to Title 5 and the new water shed permit regulations, both of which were promulgated on July 7, 2023. Once the regulations were promulgated, it designated the 5 coastal water shed areas in Harwich as nitrogen sensitive areas. The regulations outline 2 pathways, one of which is the 2 year Notice of Intent and application period where the town would make a decision to start upgrading all septic systems in nitrogen sensitive areas to nitrogen reducing systems within 5 years, or to implement a 20 year watershed permit for each watershed designated as a nitrogen sensitive area. Under the watershed permit, Harwich would need to meet 75% of the nitrogen load reductions in each watershed within the first 20-year period. There is an exemption for complex projects. Anastasia reviewed the watershed permit requirements as outlined by 314 CMR 21 and also highlighted a portion of the regulation that talks about alternate schedules that can be done based on complex issues.

Mr. Pelletier said that like most, he had a knee jerk reaction when we found out that the 40-year plan was being reduced to 20 years. He added that we have already completed 2 phases of the sewer project and are working on the 3rd, noting that when you look at all of the information, we are looking at a delta of about 7 years and that he doesn't think that we are in as dire a situation as we had anticipated.

Mr. Pelletier said that there is the compression of the timeline and the expansion of the population for targets. How many units of housing we have anticipated sewerage under the old plan is a moving part of the new regulation as well. If we were to take the original phasing plan, Mr. Pelletier would say that the map of the 8 phases would still represent what we need to sewer to remove sufficient nitrogen. Mr. Pelletier said that barring any changes from the local comprehensive plan, we are still at comparable numbers.

Mr. MacAskill asked what the cost of removal of 75% would be versus the cost of 100% removal. How much more borrowing are we front loading to our residents because of DEP's decision of unfunded mandates. Anastasia responded that the financing is something that is actively being pursued. Mr. MacAskill said that the Town of Harwich has been supportive and proactive. At some point, if this starts to not make sense, he feels that Harwich will have to join other towns in telling DEP that pushing this forward does not work without funding from them.

Ms. Kavanagh recognizes that this has been a difficult process to understand and now we have people talking about innovative alternative septic systems and a 20-year timeline. Residents need to understand that they will not need innovative alternative systems if the town can meet the nitrogen loading reduction requirements.

Mr. Pelletier said that he is not sure if it would be appropriate for the Select Board to act tonight to say that we are going to pursue the watershed permit for the 5 watersheds. Memorializing that in a vote would let the public know that we are going down the path of sewerage and would relieve people of having to worry about innovative alternative septic systems.

Russ Kleekamp from GHD was present and said that they have talked about a potential workshop for wastewater. He suggested that if there are questions at any time, that people reach out to GHD directly. They like to keep a record of all questions asked and that they go a long way when the workshops are held. Ms. Kavanagh added that another important place for information is on the town's website as a newsflash.

One concept that was shared was the development of a potential rephrasing strategy. The first would be to look at projects outside of nitrogen sensitive areas, look at the first watershed permit cycle and then the second watershed permit cycle. A map of the 2 watershed permit areas was shown. Mr. Pelletier added that as the permit is discussed, he may be able to argue that due to Harwich's complexity and quantity of watersheds, the 75% reduction rate may be reduced.

Mr. MacAskill said that he wants to make sure that there is a conversation about economic development in Harwich Center as he sees no real estate for any economic development whatsoever. He feels that we have no option but to get the watershed permits and take this burden off of having residents having to install innovative alternative septic systems.

Mr. Handler asked if there is a downside to applying for watershed permits. Mr. Pelletier responded that he doesn't not have a good opposing reason why they shouldn't be applied for. It is the most economical way to mitigate the impacts of nitrogen.

The consensus of the board was to move forward with permitting.

Mr. MacAskill said that at some point, he would imagine the town managers association will be talking about DEP's unfunded mandate and how it effects each town. For now, this information looks great, but as we present it to our taxpayers, things may change and it might now look great. Mr. Powers added that there was a hybrid meeting held and that the only thing that was agreed upon was that there was no agreement or consensus on the cape. What Mr. Powers would offer would be to turn it back to the Select Board as members of the Cape and Islands Municipal Leadership Association, as this has already been vetted at his level.

E. Approve and authorize the Chair to sign a permanent easement totaling 760 Square Feet for MassDOT at Saquatucket Harbor for the sidewalk installation on Route 28

Mr. Handler moved to authorize the Chair to sign a permanent easement totaling 760 Square Feet for MassDOT at Saquatucket Harbor for the sidewalk installation on Route 28, 2nd by Kavanagh.

Mr. MacAskill asked Mr. Powers if there is a map to show what this looks like and whether or not we have reached out to the property owners. He doesn't feel that a vote should be taken before everyone sees a conceptual drawing.

Mr. Handler withdrew this motion and Ms. Kavanagh withdrew her 2nd.

Mr. Howell moved to continue this item until the August 7, 2023 Select Board meeting, no earlier than 6:00 p.m., 2nd by Ms. Kavanagh and approved 5-0-0.

F. Review and take action on G.L. c. 268A, Section 19(b)(3) Disclosure of Non-Elected Municipal Employee of Financial Interest – Emily Brutti, Planning Board

Mr. Powers said that this vote would be if the Select Board deems that the financial interest as indicated in the request is not so substantial as to be deemed likely to impact on the integrity of the project.

Mr. Handler moved to support G.L. c. 268A, Section 19(b)(3) Disclosure of Non-Elected Municipal Employee of Financial Interest – Emily Brutti, Planning Board, 2nd by Mr. Howell and approved 5-0-0.

G. Discussion on abutter complaint regarding Cranberry Valley Golf Course

Mr. MacAskill said that there have been 4 years' worth of conversations regarding this complaint. There is a very upset resident/taxpayer who has submitted photos and articulated where the golf balls are landing on his property. After conversations with the Golf Maintenance Director in the past, the town had conceded to putting a chain link fence around the property to stop people from entering the complainant's yard. The complainant is now building a garage on his property and has submitted photos of golf balls that are landing inside of the foundation hole as well as next to his truck and trailer. The new request is that the town should install a net. The evergreens and fence that were installed are not stopping the golf balls. The net installation would likely cost the town around \$1000. Mr. MacAskill did take the time to speak with the complainant's neighbor, and while they do get some golf balls in their yard, they have not issued any complaints.

Ms. Anderson said that her understanding is that the town installed a fence and was gracious enough to put it on our land so that there was space in between the fence and the complainant's property. Trees and shrubs were also planted. Ms. Anderson also commented that she heard that the property owner took it upon themselves to remove the trees and shrubs which made the property worse. Mr. MacAskill noted that the only tree that was removed was way before the fence and that it was a pine tree so that the property owner could have a better view of the golf course. Ms. Anderson feels that makes no sense and that if you want a better view of the golf course, you are going to get some golf balls.

Mr. Howell doesn't think that that it is a big issue to spend \$1000 for the net and to say that after that, the town is done. The complainant has some reasonable right to have quiet enjoyment of their property.

Mr. MacAskill asked Mr. Handler who the professional golf association is. Mr. Handler responded that he could reach out to a college at the Massachusetts Golf Association. He added that by put a net up would be agreeing that there is an issue and could then lead to other abutters wanted fences, trees, nets, etc.

Ms. Kavanagh feels that we have done a lot and agreed with Mr. Handler about the message that installing a net would send.

Mr. MacAskill commented that what we have done for this situation clearly hasn't worked and agreed that precedence means a lot to him. The town does not have to admit any wrongdoing in the agreement. A simple \$1000 or a vote of the Select Board to have someone from the golf association look at this would go a long way. So far, the complainant has not been afraid to speak up and to have their lawyer send letters.

Mr. Howell moved to request that a professional from the United States Golf Association/Massachusetts Golf Association review the situation and report back to the Select Board with their findings, 2nd by Mr. MacAskill and approved 4-1-0 (Anderson)

Mr. Powers said that he would be concerned about specificity of notice and that there are a number of concerns that he has on his behalf of staff regarding this matter, which is why he took the administrative step of seeking legal opinion when the town received the letter about legal action. He would urge the Board not to take any action tonight. Mr. Powers stated that he does not agree with some of the suggestions that were made in conversations with staff that are fully aware of the issue at the golf course. If it is the Select Board's intent to have professional input outside of staff, Mr. Powers feels that it should go thru the Town Administrator and not the Select Board. Both department heads at the golf course are qualified and rely upon USGA guidance and input, but not for an abutter argument. Mr. Handler agreed that the staff working at the golf course know exactly what they are talking about.

Mr. MacAskill said that the complainant and their neighbor are asking for someone from outside of the town organization for another opinion. With all due respect to the Town Administrator, the complainant sent a request to the Select Board, not the Town Administrator, which is why this is back on the agenda. We have a resident who has been complaining about an issue for 4 years plus. Ms. Anderson responded that she agrees but isn't sure that she wants to spend the money nor take a shot at liability.

Mr. Howell added that this is not a final action. It is a request to have a separate set of eyes give a recommendation so the action can potentially be taken.

Mr. Handler is not so sure that the person that he will call will come out and look. If it is the Select Board's pleasure, he will make a call and inquire.

H. Vote to approve the following Special Permits:

1. Harwich Chamber of Commerce – Event Permit for a Motorcycle Ride – Sunday, September 10, 2023, starting at 9:00 a.m. at Falmouth High School, 874 Gifford Street, Falmouth and ending at 11:00 a.m. at Cape Cod Regional Technical High School, 351 Pleasant Lake Ave

2. Cape Cod Commercial Fisherman's Alliance – One Day All Alcohol & One Day Entertainment Permit – Saturday, August 5, 2023, 5:00 p.m. to 10:00 p.m., 100 Oak Street. Recorded or live music outside

Mr. Handler moved to approve the special permits as outlined above, 2nd by Mr. Howell and approved 5-0-0.

Cyndi Williams was present and thanked everyone for the assistance in moving forward with these events.

Mr. MacAskill echoed the excitement for having the Cape Cod Commercial Fisherman's Alliance in Harwich.

OLD BUSINESS

A. Update from the Town Administrator on ongoing procurement status

Mr. Powers provided an update on all procurements from the projects list as well as a memo that was provided earlier in the day.

Mr. MacAskill thanked Mr. Powers and Assistant Town Administrator Meggan Eldredge for their work but couldn't help but notice and point out a variety of projects, dating back to 2013, that had amounts voted on at Town Meeting. We know that some of the procurement that we are waiting on is fresh, but also know that if we wait a year or two, prices can potentially increase. Given that some of these projects are seemingly not that important because they have not been initiated, why wouldn't the Select Board encourage people to re-apply for them as a capital request. He asked how long items will remain on the list. Mr. MacAskill asked for Mr. Powers' thoughts as to why the Department of Public Works has 22 open procurement items that have not yet been initiated. Mr. Powers specifically looked at the 2013 Article 31 for the library building maintenance. When the descriptor of awaiting initiation was created on the spreadsheet, it was to show the remaining funds. Any of the articles that are older than 2019, as part of his budget process in the last cycle, Mr. Powers reached out to departments and asked why funds couldn't be taken back or transferred. The response given was that they still intend on using the leftover money.

Mr. MacAskill asked to add a column to the spreadsheet to show what funds are leftover versus an article. He is not sure that it would be okay with the taxpayers to think that all of these funds are being kept as savings accounts for spending. If there is an overage and the project has been completed, the remaining funds should be turned back.

Mr. Powers pointed out that there are 12 projects in the RPF status. He could imagine that at least half of the 12 are going now to either contract award final step or complete.

Ms. Kavanagh wondered why some of the items are awaiting initiation for small amounts. Ms. Eldredge responded that the small amount is part of the larger beginning amount. Ms. Kavanagh asked about the 2016 Route 39/Chatham Road date. Ms. Eldredge responded that is an error and

meant to be 2023. Mr. Powers added that 2016 was a reference to a previous version and that he did not want to change the date and be accused of altering the document. The year has not changed, the dollar amount has been added.

Ms. Anderson asked for an update on 276 Queen Anne Road. Ms. Eldredge responded that the URL is the same for all procurement which is Harwich-ma.gov. If you click that link, it will take you to a list of all the RFP's.

Mr. Powers stated that 29% of the procurements that are dealing with are in a state of near completion for the first fiscal quarter. He feels that this is a great number and thanked Ms. Eldredge who is a force at procurement and keeping it all in line. Mr. Powers also thanked all of the department heads for partnering in these projects.

B. Update on the progress of the Intermunicipal Agreement with Cape Cod Technical High School

Mr. Powers, Mr. MacAskill and Town Counsel met with the Administration office at the end of June with Superintendent Bob Sanborn and Erin Orcutt from the Cape Cod Regional Technical High School. Counsel for the tech school was present via phone. A bit of helpful information was covered, and a draft agreement was sent to the town. Mr. Powers latest information says that the town is now waiting on the tech school.

Mr. MacAskill said that there is a finalized draft that will be sent to board members. He asked them to make their comments and will request through the Chair that this be put back on an agenda. The draft has also been sent to the Conservation Administrator and Conservation Commission for their review. There will be a bog tour with the Conservation Commission on August 9, 2023, at 3:30 p.m. Leo Cakounes will be there to go over the property.

CONTRACTS

A. Authority to file document to execute for the Phase 3 project delegating Town Administrator to sign on behalf of the Town for the Phase 3 project

Mr. MacAskill asked the Town Administrator to forward the board members associated documents.

Mr. Handler moved to file document to execute for the Phase 3 project delegating Town Administrator to sign on behalf of the Town for the Phase 3 project, 2nd by Mr. MacAskill and approved 5-0-0.

B. Approve an Intermunicipal agreement with Barnstable County for administering the Public Health Excellence for Shared Services Grant

Mr. Handler moved to Approve an Intermunicipal agreement with Barnstable County for administering the Public Health Excellence for Shared Services Grant, 2nd by Mr. Howell and approved 5-0-0.

- C. Approve the contract with Atlantic Recycling Equipment, LLC for the purchase of two Municipal Solid Waste Trailers - \$205,000

Mr. MacAskill commented that Kyle Edson did a great job with the procurement on this. He noted that we are buying 2 more trailers but that there is no mention in any of the documentation of what will happen with the 2 existing trailers. Ms. Anderson responded that she thought it say that they were being replaced. Mr. MacAskill said that there is nothing provided about trading them in. Mr. Powers responded that generally speaking, there is either disposal or surplus property as so declared trade-ins or repurposing.

Mr. MacAskill said that here we are buying more trailers and asked how long Harwich is going to take trash from Provincetown to Yarmouth at the rates that we are taking them and then continue to talk about expansion, where in the given market, we should start to look at Harwich only. Ms. Anderson said that the point is that we might not needed these trailers if we weren't taking care of other towns.

Mr. MacAskill feels that the \$8,000 delivery fee from New Hampshire seems a bit excessive.

Mr. Handler moved Approve the contract with Atlantic Recycling Equipment, LLC for the purchase of two Municipal Solid Waste Trailers - \$205,000, 2nd by Mr. Howell and approved 5-0-0.

- A. Vote to authorize the Chair to sign the Harwich Green Communities grant extension

Mr. Handler moved to authorize the Chair to sign the Harwich Green Communities grant extension, 2nd by Mr. Howell and approved 5-0-0.

- B. Discussion and possible vote to execute a Grant Agreement between the Town of Harwich and the Harwich Conservation Trust relative to the construction of the Cold Brook Ecological Restoration Project - \$1,500,000

While the board did not put a limitation on grant agreements that the Town Administrator can sign, this is a large number, hence the approval request.

Mr. MacAskill asked who is going to take the project lead on this. Mr. Powers responded that the Director of Natural Resources would be the primary point of contact.

Mr. Handler moved to execute a Grant Agreement between the Town of Harwich and the Harwich Conservation Trust relative to the construction of the Cold Brook Ecological Restoration Project - \$1,500,000, 2nd by Mr. MacAskill and approved 5-0-0.

TOWN ADMINISTRATOR'S REPORT

Report will be given at the August 7, 2023 meeting.

SELECT BOARD'S MEMBER REPORT

Mr. Howell said that he attended the 5th annual Cape Verdean Festival on Saturday and that it was a terrific event. It is educational and applauded everyone who showed up. He invited everyone to next years festival.

Ms. Kavanagh congratulated Heinz Proft on his retirement. Mr. Proft is a valuable asset lost and will be hard to replace. She wished him luck.

Mr. Handler thanked everyone who came to their office hours session at the library last Thursday. It was extremely beneficial for all.

Mr. MacAskill commented that several attended Mr. Proft's retirement party and that it was a touching event.

Ms. Anderson reported that one of the visitors at the open hours was the new president and vice president of the Cranberry Harvest Festival. They talked about the festival and how much money they give back to the town. They wanted to promote their events in September as well as music events at the 204.

CORRESPONDENCE

No correspondence was discussed.

ADJOURNMENT

Mr. Handler moved to adjourn the Select Board meeting, 2nd by Mr. MacAskill and approved 5-0-0.

Respectfully submitted,
Jennifer Clarke
Recording Secretary