

APPROVED

RELEASED

RECEIVED
TOWN CLERK
HARWICH, MA

2023 SEP 19 A 9:58

**MINUTES
SELECT BOARD
HARWICH TOWN HALL
TUESDAY, SEPTEMBER 5, 2023
6:00 P.M. - REGULAR MEETING
REMOTE PARTICIPATION OPTIONAL**

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

ALSO PARTICIPATING: Town Administrator Joseph F. Powers

CALL TO ORDER

Ms. Anderson called the meeting to order at 6:00 p.m.

PUBLIC COMMENTS/ANNOUNCEMENTS

Patrick Otton was present to talk about the vulnerable road users law that was passed on April 1, 2023. The law reads that vehicles must allow a 4' buffer when passing a pedestrian, cyclist or anyone not operating a vehicle. Mr. Otton spoke to Officer Ruggiero this morning who was not aware of the law but agreed that signage is needed to educate the public. Highway Director Linc Hooper was present and provided an update that 50 signs have been ordered and are pending delivery.

Community Center Director Carolyn Carey was present and reviewed upcoming events. Events include a panel of guests coming to speak about opioid addiction; a free concert by the Sound Dunes; writer Mike Bernard who will be talking about starting to write after the age of 50 as well as a movie and pizza night. On September 16th and 17th, the Community Center will be asking people to come paint their handprints that will go on the wall in the game room. Information regarding all these events can be found on the Town of Harwich website as well as in the Community Center newsletter.

Harwich Chamber of Commerce Executive Director Cyndi Williams was present and stated that this Friday starts the Cape Cod Senior Softball in Harwich which will be in coordination with the Yarmouth Chamber of Commerce. The first game will start at 8:30 and Ms. Williams will be throwing out the first pitch. September 9th will be the annual beach day which will be held from 11:00-3:00 at Red River Beach. New this year for Harwich will be the 6th annual ROAR motorcycle ride which benefits opioid addiction recovery. On September 13th there will be a job hiring fair at the Community Center. Right now, 20 employers are signed up and tables are still available. Ms. Williams briefly reviewed the upcoming Cranberry Festival events.

Fred Munday, president of the Cranberry Festival was present and reviewed the upcoming beach day activities as well as the upcoming touch a truck event. Veterans Food Truck and Good Times Ice Cream will be at the event as well as a bake sale table that the women of the Cranberry Festival

APPROVED

have put together. Crafters will be set up from 9:00-4:00 on September 16th and 17th. There are about 180 crafters signed up as well as 20 non-profit tents. In working with Carolyn Carey, the gym at the Community Center will be set up for Alan Hall to put on a display about cranberry growing. Mr. Munday thanked Bob Weiser for helping to put together all the upcoming music events. Mr. Munday also thanked the local businesses who have very generously made donations of gift certificates to be raffled off. Ms. Anderson commented Mr. Munday and his team for everything they have done to bring this festival to a new level.

Library Director Ginny Hewitt was present and wanted to highlight things that they are doing for children and youth during the Fall. The library has always been a safe and welcoming destination for after school activities. Ms. Hewitt introduced new programs which include a magic club, a food program and a junior librarian's program. Youngsters ages 10 and above and welcome to visit the library without an adult, even if they are not attending any of the programs. Ms. Hewitt asked parents to talk to their children to help them feel safe while at the library. Elementary school age children can visit the library with a parent. Additional programs will include a special Lego free day program on Wednesday afternoons and continuing story time on Tuesday and Thursdays. One new program for adults is a creative writing series that will be led by Clark Tucker and will start on September 14th. There is no charge to participate, and people can sign up on the website or call the library.

Ms. Anderson thanked everyone keeping Harwich active.

- A. Open Meeting Law Training for Boards, Committees & Commissions – Thursday, September 28, 2023, Session 1 begins at 2:00 p.m., Session 2 begins at 5:00 p.m., at the Community Center

Town Clerk Emily Mitchell was present and reviewed the upcoming open meeting law training to be held on September 28th. This training is open to all committee, commission, and board members as well as staff. The sessions will cover essentials including posting proper notice any time you intend to deliberate on a subject as well as minutes. As always, Janelle Auston from KP Law is willing to answer questions. People are being asked to register in advance by calling or emailing the Town Clerk's Office.

Mr. MacAskill asked what outreach has been done for the committees. Ms. Mitchell responded that information is available on the Town of Harwich main web page, the Town of Harwich Town Clerk's web page and was also sent out as an alert for anyone who is subscribed to the Town website. Information can also be found on social media pages and Ms. Mitchell offered to spread the word more broadly. Mr. MacAskill encouraged the liaisons to reach out to their respective boards and committees. This is a 2-hour training, and it is well worth it.

Town Clerk Emily Mitchell stated that if committees are present and have a quorum in the room, that she would advise that they hold off on any discussion until a future meeting that has been properly posted.

Mr. Handler thanked Ms. Mitchell for being such an incredible resource that delivers information with a smile and a wonderful attitude.

Mr. Powers announced that if anyone has been traveling on Bank Street, they will have noticed the great construction project going on at the 203 Bank Street/former fire station property. He advised that the trails abutting the project are closed due to the ongoing ecological restoration project. The trails will likely be closed for up to a year.

CONSENT AGENDA

- A. Accept the resignation of Eric Levy, Bikeways Committee, effective immediately
- B. Approve David Nixon to be the Recreation and Youth Commission representative to Community Preservation Committee, term to expire June 30, 2026, as approved by Recreation and Youth Commission
- C. Approve Robert Doane to be the Historic District and Historical Commission representative to the Community Preservation Committee, term to expire June 30, 2026, as approved by the Historic District and Historical Commission
- D. Affirm Don Yannuzzi, Jr. as the Shellfish Constable, term to expire 06/30/2024, per Town of Harwich Charter Chapter 3, Section 6, 3-6-1
- E. Affirm the appointment of Amy Jalbert to the Voter Information Committee, term to expire 6/30/25, as recommended by the Select Board Interview Committee
- F. Accept a donation for after school and summer programs in the amount of \$1,000 from the Chatham Harwich Newcomers Club, Inc.
- G. Approve Select Board Meeting Minutes:
 - 1. August 21, 2023

Mr. Handler moved to approve the consent agenda as listed, 2nd by Ms. Kavanagh and approved 4-0-0.

NEW BUSINESS

- A. Discussion on the Disposal Area Regulations as it relates to the Treasure Chest Operation; Votes may be taken

Mr. Handler said that he wants to make sure that this discussion is specific to the Treasure Chest rules and regulations and not so much the Disposal Area Regulations. He added that he would like to provide a narrative of the alleged events and would not be using specific names out of respect for all parties. On April 22, 2023, there was an incident at the Treasure Chest where a customer was being disruptive and allegedly throwing donated items at the volunteers. The same customer showed up the following morning and allegedly continued to be disruptive. The items thrown included a pickax and shovel among other things. Some of the volunteers feel that this customer is continuously threatening and harassing them, and they would like to see this customer banned from the Treasure Chest so these actions will stop. After the alleged incident, Linc Hooper and Ellie Gerson, Treasure Chest Chair devised a strategy whereby that customer would be allowed to come to the Treasure Chest and shop only when Ms. Gerson was present. Mr. Handler said that he understands that the customer apologized to Ms. Gerson for his behavior and agreed to the proposal. Ms. Gerson conveyed the plan to the Treasure Chest volunteers and put the

discussion item on their May meeting agenda. Unfortunately, due to time constraints at the meeting, the committee was not able to get to that item on the agenda and it was rescheduled for a future meeting. When Mr. Handler became the liaison to the Treasure Chest Committee, several members voiced their concern that this customer could not behave, and that having Ms. Gerson oversee the customer was not a good resolution. At that point, Mr. Handler suggested that the committee formalize this by making a motion that would create a recommendation to the Select Board. There was a motion made and carried by the Treasure Chest Committee to not allow this patron to have access to the Treasure Chest.

Mr. MacAskill feels that this does not belong before the Select Board and that it is clearly a Police Department issue. This is an alleged event. He does not recall in his 9 years on the board removing anyone from anything besides a committee. Besides not being able to take things from the Treasure Chest and sell them, there are not other rules. There is nothing about behavior. Mr. MacAskill said that we are asking volunteers to basically run business and police it. In the disposal area regulations, it does outline that the disposal area supervisor would be contacted if there is trouble, which sounds like it did happen in this case. While Mr. MacAskill wouldn't have a problem removing people, we just don't do it. At this point this information is all alleged and the person that is involved has not been questioned by anyone on any official level in the town, nor was anything reported by the disposal area supervisor. Also, the agenda does not give anyone any idea of what the Board would do or consider doing. Mr. MacAskill doesn't think that the Board should take any action. He added that Mr. Handler is working on a charge for the Treasure Chest Committee and suggested that they might want to work on some new rules. The structure and what we are asking of volunteers should be discussed. Because of the severity of these allegations, Mr. MacAskill asked that Mr. Powers or Mr. Handler as the committee liaison contact the Police Chief tomorrow and provide information for follow up.

Mr. Powers agreed that the Police should be notified. The information provided in the packet is all that could be found as it relates to the Treasure Chest.

Ms. Kavanagh agreed with Mr. MacAskill and Mr. Powers. She asked that when Mr. Handler is working on the charge, that the volunteers should be thought about. It should be a one and done if someone is throwing things. No action can be taken tonight based on the agenda item and based on the point that the Select Board doesn't remove people in these situations.

Mr. Handler noted that these volunteers do a good job and their safety, as well as the safety of everyone at the Treasure Chest is paramount to him. He is not sure why the police were not called after the event. Mr. Handler wants to provide some level of comfort and safety to the volunteers who have to go back to the Treasure Chest this weekend. If said person shows back up, he thinks that the volunteers would be uneasy. Mr. Handler said that he will reach out to the Police Chief, along with the Treasure Chest chair and state the narrative.

Ms. Anderson added that Mr. Handler should also advise the Treasure Chest and volunteers that if there is any type of activity of this level, it should be an immediate call to 9-1-1.

Mr. MacAskill asked if it would be fair to say to the Police Chief that it was the consensus of the Board that this be handled immediately.

Mr. Powers said that on the overall matter, he will work with the director and the team at the disposal area. There still should be the opportunity for the volunteers to communicate with staff while they are on site if they need anything. We can make sure that they have strong support from staff in that area and communication devices.

B. Update from a member of the Local Planning Committee on the Local Comprehensive Plan

Local Planning Committee Chair Joyce McIntyre was present along with Tighe and Bond Principal Planner Sharon Rooney.

Ms. Rooney stated that they are assisting the town with the Local Planning Committee (LPC) update as well as the open space and recreation plan and the housing production plan. The housing plan is primarily being prepared by a subconsultant. The idea is that the 3 plans will be prepared simultaneously, and it is great timing to do them all at once. Ms. Rooney is serving as the project manager for the overall effort. The team focused their early efforts on public outreach postcards with 3 questions. The postcards were distributed at various events. They have spent a little time starting to prepare a survey which will go out in late October or early November. The hope is to have much more community input going forward. Project goals include preparing a vision statement and growth policy, complete inventory, and assessment of existing conditions, identify planning and land use goals, prepare capital facilities and infrastructure plan, complete housing production plan update, prepare targeted action plan and implementation schedule, draft and finalize the LCP for adoption and to satisfy the requirements for the Cape Cod Commission. Ms. Rooney reviewed the LCP components of the plan. Tighe and Bond will assist along the way with communication and bringing drafts to the Cape Cod Commission for review to ensure that the plan is meeting both their requirements and town requirements. The team plans on having fall visioning workshops.

Mr. Handler asked if the open space and recreation plan and the housing production plan along with the LCP must survive Town Meeting, or just the LCP. Ms. Rooney responded that just the LCP would need Town Meeting approval, although it would make sense to have all 3 finish at the same time. The housing production plan and open space and recreation plan would be prepared in at least a solid draft form prior to finishing the LCP, so they can help form what the LCP will include.

Ms. McIntyre said that the Select Board appointed the LPC as a group of 11 members in September 2022. It has been a very vigorous process and they have committed to an open respectful dialogue across the community and continue to educate themselves. The committee recognizes that this is a unique time in Harwich history. They have also identified stakeholders for this plan. Ms. McIntyre went on to review what actions have been taken in the Winter, Spring and Summer of 2023. In the summer of 2023, they worked on qualitative and quantitative data.

The pop-up visioning card that was created has received close to 100 digital responses, which Ms. McIntyre shared some of the results with a word cloud presentation.

Ms. McIntyre commented that the ask is for the town support and that they will need some basic tools in terms of engaging members of the community digitally. The role of the committee is to have the time and space to think and to be able to think long term about Harwich, with the Select Board's input and guidance. The goal is that this plan is both useful and used. So far, the response has been really good.

Ms. Anderson asked Mr. Powers if there is a status update on hiring a new Town Planner and asked if he is aware of the nimble tool. Mr. Powers responded that he has put the committee in touch with our IT Director regarding the digital piece. There are some digital tools that can be used presently and others than can be purchased. As it relates to the Director of Planning and Community Development, the job has been advertised. He noted that one of the problems that we find in key positions is finding those technical people that are already on Cape Cod.

Ms. Kavanagh said that she loves the questions being asked and some of the responses. She asked what the feedback has been like. Ms. McIntyre responded that the feedback has been remarkably positive, engaged and candid so far and that they would have more information available after the Cranberry Festival.

Ms. Anderson asked what social media sites are being used for outreach. Ms. McIntyre responded Facebook including the Harwich Old Timers and I Love Harwich pages as 2 separate groups. She provides thought outlets with the information. Ms. Kavanagh added that Instagram might capture the younger people's feedback. Ms. McIntyre responded that there is a standard that we should be meeting to capture as many people as possible. There is a record of all the visioning that the committee is doing. There are all different demographics that they will need to reach, and social media is only one piece. Ms. Kavanagh added that the schools might be a great resource as well.

Ms. Kavanagh said that the housing production plan is really focused on density and that there is a lot of good information in there. She asked if it would be vetted through the Cape Cod Commission. Ms. Rooney responded that it would be vetted through the town and that the plan would specifically address big A affordable housing and then the LCP can address further housing issues.

Ms. McIntyre said that one of the things that she is excited about are the high-level questions about housing that have never been formally asked for Harwich. We all know that housing is important and that it is complicated.

Ms. Kavanagh would like to make sure that we are able to include the younger population into these conversations.

Mr. Handler feels fortunate to have these committee members that are truly digging down into the dirt of what will be in the best interest of Harwich long term.

Ms. Anderson commented that when residents were interviewed for the committee, she was struck by the caliber of people, the variety of experience and the passion around this subject.

Patrick Otton was present and asked how the plan is implemented and how does it function. Mr. MacAskill responded that there is a copy of the current LCP that can be obtained from the Administration Office. Ms. Rooney added that the current LCP is on the website in terms of where it lives. It had goals, a vision statement, actions, and an implementation schedule. In terms of updating the plan, they will be looking to see what has already been implemented. The actions are the meat of the plan. Usually, the action plan will include responsible parties and who will take the lead on certain actions, generally a town department, committee, or board. Some of the required actions will be educating the public about issues. It will be the responsibility of the town to carry out the actions in the plan and then report back to the Cape Cod Commission at certain stages.

- C. Vote to appoint Dinah Lane as the Town of Harwich Representative to Cape Media Board of Directors, term to expire 12/31/2025

Mr. Handler moved to appoint Dinah Lane as the Town of Harwich Representative to Cape Media Board of Directors, term to expire 12/31/2025, 2nd by Ms. Kavanagh and approved 4-0-0.

- D. Vote to remove Cameron Smith from the Waterways Committee due to lack of attendance

Mr. Handler moved to remove Cameron Smith from the Waterways Committee due to lack of attendance, 2nd by Mr. MacAskill and approved 4-0-0.

- E. Vote to remove Andrew Docken from the Bikeways Committee due to lack of attendance

Mr. Handler moved to remove Andrew Docken from the Bikeways Committee due to lack of attendance, 2nd by Mr. MacAskill and approved 4-0-0.

Ms. Anderson stated that both individuals were contacted multiple times and did not response. In fact, one said that they would not send a letter and that the Board would just have to be removed. While this was not easily done, it was properly done.

- F. Discuss the Select Board's Social Media Policy

Provided in the packet is what Town Clerk Emily Mitchell and Mr. Powers will speak to regarding the town wishes to adopt a social media policy. Both Ms. Mitchel and Mr. Power see great value in having such a policy. Ms. Mitchell will be talking about the policy as it relates to board, committees and commissions and Mr. Powers will be talking about it as it refers to staff.

Ms. Mitchell said that for her, the potential discussion on a town level social media policy came from the deep dive on committees that staff has been working on. This is a policy that many communities have. She sees it for organization created content as well as for individual users who use social media platforms. Ms. Mitchell added that the 2 intersections that impact her purview are public record requests and open meeting law. The draft policy that is included in the packet is the current draft as used by KP Law. There are some blanks in the policy that would be filled in by the Select Board, should a policy be implemented.

Ms. Anderson asked if this would mean that committee chairs should not be posting on social media sites. Ms. Mitchell responded that she would not offer an opinion that goes that far. Even a post on a non-Town of Harwich official page would still be considered a public record.

Ms. Kavanagh asked how we get social media pages for committees, noting that we don't really have a process. Mr. Powers responded that for our purposes, these discussions are the first step, adding that the town does have social media interaction insurance through MIIA. We would rely upon them for training if this does move forward. If the Select Board gives the green light to work through the policy on policies, there would be a first hearing, second hearing then adoption. He also imagines that there will be funds available in FY25 where we can have appropriate training as well as the possibility of acquiring the software that we would need should any public record request or any lawsuit be filed.

Mr. MacAskill feels that this would hold everyone accountable.

Mr. Handler asked if this would require everyone who falls under the umbrella to have to sign a document. What would happen if someone refused to sign acknowledgement. Mr. Powers responded that it would be simple with a policy. Anyone who can represent the Town of Harwich would be required to acknowledge the policy. The policy would be distributed to staff upon hire and stapled to pay checks for existing staff. As the Town Clerk's Office engages with committee members, it would be something that they would be given with their informational packets. Mr. Powers added that without a policy invites negligence and potential disaster.

Mr. Handler asked what the timeline would be to put this in play. Mr. Powers responded that the first step would be a green light from the Select Board that we are on the right track. We would then schedule a first reading hearing and all that goes into the policy. If there is any fiscal component, it can be brought to Town Meeting.

Ms. Anderson asked to confirm that someone said there are 20 town sites. Ms. Mitchell responded that she did a quick search limited to Facebook to see what Town of Harwich accounts came up. There are 13-14 department pages and at least 2 committees running pages on behalf of their committee.

The consensus from the Select Board was to move forward.

Mr. Handler asked who would take the lead from here. Ms. Mitchell responded that she envisions an ongoing partnership with herself and Mr. Powers. Mr. Powers added that this

would fall to him for the next steps and to fill in the blanks. It was also noted that we would want to engage the departments and/or committees that may have a social media presence so they are aware of what we are looking to do.

G. Review financial audit presented by CLA Consulting

Mr. Powers reported that we have not received the final version of what is still in draft form. The analysis is nearly complete however one of the items that was not included is the material and the information that has been collected by our Finance Director. Staff is working on a final document and there is an expectation that all information will be available for the September 18th Select Board meeting.

Finance Director Kathleen Barrett was present.

Mr. MacAskill asked if the revenues and expenses for FY23 represent a partial year only. Ms. Barrett responded that is all FY23 revenue and we are still working to finalize with the understanding that there is always the chance that an expense has not been reported. Mr. MacAskill went on to ask what happened with the revenues less expenses minus 75%. Ms. Barrett responded that reflects a 3-year change. With COVID, there was a great deal of fluctuations and that it is more of a bell curve rather than a line, adding that FY22 was an anomaly. Unfortunately, the expenses have grown considerably. Whereas the revenue in FY22 was higher, everyone was home due to COVID and generating more trash. Mr. MacAskill said that a lot of what started this was the conversation about what we are charging and what we are paying to dispose of the materials. It is impossible that we are breaking even. He asked if this information would be part of the final report, or will we receive an audit of what has been spent and brought in with no explanation. Mr. Powers responded that it started as an opportunity to analyze the operations, which to his knowledge had never been done at an in-depth level, given that there was a significant request for changes and fees. What you will see is a comprehensive analysis of how the operation is run and what does it look like for the disposal area operations going forward. When Ms. Barrett brought these documents to Mr. Powers attention, the first thing that he noted was the potential good news that we hit our revenue expectation to the tune of \$115,000 over.

Mr. MacAskill asked why we are doing budget transfers in the amount of \$150,000-\$250,000 at the end of every year. Given these numbers, it looks o him like we are doing fine other than the expenses. Ms. Barrett responded that the issue sometimes with budgeting and municipal accounts is that you must adhere to a voted budget. Some towns have a transfer station that operate as an enterprise fund. In our case, it is very difficult to parse out each truck trip. The transfers as discussed, you could make the argument that if the budget was set at a level that was voted on based on best estimates at the time, could still be insufficient to cover expenses for the department, you would have to true up that budget line as to not exceed it. It is more allocation issues and not necessarily exceeding expenses in their department.

Ms. Anderson asked if we only took care of Harwich, could the transfer station be open only 5 days a week and asked if we would get to those specifics in the review. Mr. Powers responded generally yes.

Regarding the account aging report, Ms. Kavanagh noticed that there are at least 3 companies with some high balances in the 60- and 90-day due dates. She asked if there is a policy regarding past due accounts. Mr. Powers responded that he is not aware of a policy. This is something that the finance division discovered separate from the audit work. There should not be that level of aged accounts. If we the town have a practice of aging accounts, then we would have a lot of explaining to do to the residents who are not afforded the same luxury.

Mr. Handler asked when the final draft is going to land. Mr. Powers responded that staff is working on a schedule and wants to make sure that the audit firm has had a chance to review the Finance Director's information. The plan is still on track for the September 18th Select Board's agenda for review.

H. Approve the following Special Permits:

1. One day wines & malt permit – Rotary Club of Harwich/Dennis – Event to be held at Stonewood Products, 15 Great Western Road, on Saturday, September 23, 2023, 5:00 p.m. to 10:00 p.m.
2. One day entertainment & event permit – Harwich Chamber of Commerce – Event to be held at Hinckley Home Center, 138 Route 137, on Saturday, September 23, 2023, 12:00 p.m. to 4:00 p.m. – Recorded/live music, amplification, dancing outside
3. One day entertainment & event permit – Harwich Chamber of Commerce – Holiday parade to begin at Harwich Elementary Parking lot, 263 South Street & end at Harwich Community Center, 100 Oak Street, on Sunday, December 3, 2023, 12:00 p.m. to 2:00 p.m. – Recorded/live music, amplification outside

Mr. Handler moved to approve the special permits as listed above, 2nd by Mr. MacAskill and approved 4-0-0.

OLD BUSINESS

A. Review of Committees; Votes may be taken

1. General Issues

Ms. Anderson said that if you look at the overall questions, she thinks that the Select Board concluded that the Interview Committee would continue to interview applicants and appoint as to their best judgement. She also commented that the Select Board talk about the process of handling current committee members if we choose to reduce seat numbers or combine committees. Mr. MacAskill and Mr. Howell would work out a proposal on how that could be handled.

Mr. MacAskill responded that it was more based on what board members come back with. Using the Harwich Accessibility Rights Committee as an example, they have been having a hard time coming up with a quorum. It is frustrating to the committee that they don't really have anything to do. Mr. MacAskill tried a couple of weeks ago to get the membership dropped to as an interim

step. Ms. Anderson thought that the committee was increased from 5 to 7 members at their request. Mr. MacAskill confirmed that is correct.

Mr. Handler asked if a member could be made an alternate. Mr. MacAskill responded that the committee already has 2 alternates.

Mr. MacAskill knows that Mr. Howell has been involved in this a little bit because he is aware of areas that we know we are deficient in including handicapped signage and ADA compliance in buildings. HARC has asked for the list of areas of deficiency and claim that they have not received it. Mr. MacAskill doesn't see the need for the committee right now, unless the charge is changed, and they are given something to do. He has spoken with 2 members of the committee.

Mr. Powers added that if the committee were to be disbanded, the town would still be following state regulations as we have an ADA Coordinator.

Mr. MacAskill said that he doesn't like to waste people's time and that if there is a charge that makes sense and the work is being done, then great. There has been frustration expressed by the chair of HARC and a statement that they no longer wish to be the chair.

Ms. Anderson said she does not understand why we have alternates and would propose eliminating those not required by regulations. She is just assumed to no longer have alternate positions. Mr. Powers responded that in doing research, some municipal law comments were found to be informative. They referred at the time that we amended the charter to add alternates. What he does not think was brought to the commentary was that the municipal law unit cautioned the town that if you are going to have alternates, that the town establish a process or policy by which the alternates would be incorporated into the decision making. A regulatory board alternate is a real thing whereby if the chair evokes the need, that they have a standard of care that they are bound to. We should contemplate the same thing if we are going to have alternates for non-regulatory boards.

Mr. MacAskill commented that he always saw alternates as a training ground for someone to be on a committee and learn but added that they could be a participant in the audience and learn. Other than the regulatory board, he has no feeling on it. He noted that the Board of Health desperately wants to add a couple of alternate members to their regulatory board.

Board of Health Chair Sharon Pflieger was present and noted that she is not speaking for the entire board. They did request alternate members over a year ago. The Health Director at the time did reach out to the Select Board to say that an alternate would be acceptable. The question was whether the alternate member could vote. Ms. Pflieger said that this is very important to the Board of Health where they occasionally are down members and do not have a quorum to have a meeting. It would be advantageous to have alternates.

Mr. Powers said that the discussion would not be if the alternate is allowed as there is ample case law that talks about the Board of Health. There are disconnects between what the case law says and what our charter and bylaw states and that is what must be corrected. When a member of the

Board of Health is going to be elevated from alternate to voting active member is something that must be addressed generally by policy, if not by bylaw.

Ms. Pflieger noted that this has come up before and that nothing has been followed through on. As far as voting, her thought is that when you look at the legal system, they have alternates, they sit in on all the meetings. If there isn't a quorum, then that person at that meeting would fill the space. That is what the Board of Health would be looking for. Mr. Powers responded that he believes that is the core of what the Attorney General's Office is getting to. The town needs to develop a system as to how and in what instances. If we are going to elevate someone from alternate to acting member, there are other steps that would need to take place with the Town Clerk's Office where if an appeal is filed, we can demonstrate that we have complied. Mr. Powers would like this us to revisit the advice and direction from the Attorney General's Office and see direction from Town Counsel.

Ms. Kavanagh said that the point is that the process needs to be cleaned up. With Zoning Board of Appeals for example, a member has to be present at so many hearings in order to be a voter. You cannot just have an alternate jump in.

Mr. MacAskill asked if we could get a sequence of events that need to happen for the Board of Health.

Ms. Anderson asked Mr. Powers what could be done separate from Town Meeting and the bylaw/charter change. Mr. Powers responded that when something appears in both a bylaw and the charter, both would have to be amended. If that is not the case, the next step would be developing the process or Board of Health policy through the executive board of an alternate shall be exercised in a certain manner. Theoretically, this could be done as early as the September 18th Select Board meeting. There is a need to have a conversation about alternates in general.

Mr. MacAskill said that both himself and Mr. Howell as the Interview Committee have said to applicants that they are potentially reducing membership numbers so that they might not be appointed to a first-choice committee. The Interview Committee has been able to have some applicants directed to other committee vacancies that they would be interested in.

2. Any Committee update
3. Agricultural Commission

Mr. MacAskill recommended making the Agricultural Commission inactive and informing the couple of remaining members of the status. The committee is not meeting, and they have not held a meeting to put a new chair in place. Mr. MacAskill spoke with the Board of Health, Animal Control Officer and Conservation Commission and the consensus was the same. The Board of Health did say that the committee was helpful when they went through the piggery discussions. The commission has nothing on the table at this point. Mr. MacAskill has also spoken with past and present members who agree that there is nothing for them to do. If the committee is needed again, we can advertise that we are looking for members. Several in town have indicated that they would help. Ms. Kavanagh added that the committee had requested 3 or 4 years ago to come back,

and they never really came back. If they want to come back in the future, they will need to be contacted.

Mr. Handler thanked Mr. MacAskill for doing the leg work on this.

Mr. MacAskill moved to make the Agricultural Commission inactive, 2nd by Ms. Kavanagh and approved 4-0-0.

4. Annual Committee meetings

Ms. Anderson stated that staff had pointed out that this is the time of year that each committee comes before the Select Board and gives a report. In the charter, it reads that the committees must meet with the Select Board once a year. There was a move last year where written reports were received, and the committees did not come in to talk.

Mr. MacAskill said that there were several that didn't come before the Select Board and added that written reports were because of the pandemic. The Select Board generally saw 5 committees at a time and there were questions that each one had to answer. He is not sure that the committees need to physically meet with the Select Board.

Mr. Powers believes that the reference is that the committee should interact with the Select Board on an annual basis and the process evolved into formal annual meetings. The town would be very well protected if the Select Board meets with a committee over the year and chalks it up to section 7-2-3 of the charter. Ms. Anderson added that the Select Board could schedule meetings with those committees that haven't met with them. Mr. MacAskill thought that to be a great idea. Ms. Anderson also suggested the Select Board could bring the committee to a meeting on the night that they are being discussed.

B. Discussion - Notice of subsidy via the Cape Cod and Islands Water Protection Fund

Mr. Powers stated that when the town receives notices of such messages like this one and the next on the agenda, he feels it very important to present it to the Select Board. The Town of Harwich was awarded subsidies that we requested both related to the intend use plans as they relate to Route 28 sewer construction project and phase 3 sewer extension. This shows that the water protection fund is working with the funds that they have available and the hope is that the funds remain robust going forward.

Mr. MacAskill noted that the number for the Route 28 sewer construction project is \$2,024,897 and \$10,475,000 for the phase 3 sewer extension.

C. Attorney General Review of General and Zoning bylaw amendments from 2023 Annual Town Meeting

Town Clerk Emily Mitchell was present to provide updates on the various bylaw amendments from the 2023 Annual Town Meeting. Amendments included 3 general bylaws (36, 55 & 56) and

zoning bylaws (37, 38 & 39). What happens after bylaws are favorably voted at Town meeting is that the Town Clerk submits them to the Attorney General's Office Municipal Law Unit for review. Their review process involves what the town voted and deciding if the votes are consistent with state law. Now that the Attorney General's Office has approved the amendments, the next step is to inform the public. Our constable posted the amendments to the physical locations around Harwich and the postings will also be in the next 2 weeks of the Cape Cod Chronicle. Once the notice requirements have been satisfied, we will be looking at those bylaws going into effect. General bylaws going into effect under state law upon approval of if there is an effective date in the bylaw. Zoning bylaws are backdated in their effectiveness to the date that they were approved at Town Meeting.

Ms. Mitchell pointed out that the Attorney General did provide a lengthy letter focused on the 3 zoning bylaws that were amended and approved. One that did point out was for article 37 regarding the accessory dwelling units. In reviewing the amendment, they did review the bylaw but also flagged some other areas of concern. Ms. Mitchell's take away is that there may be language in the bylaw that may conflict with state or federal requirements and recommended that Town Counsel review those sections. She imagines that a review may lead to future zoning amendments to go before Town Meeting.

Ms. Anderson thinks that what they are saying is by using the term two bedrooms, that we are discriminating against families. Her thought is that we have to take that out and say that the bedrooms would be limited based on the Board of Health septic requirements.

Mr. MacAskill feels that this would be a great question for KP Law and would support their review. Ms. Kavanagh agreed and adding that an ADU is supposed to be an additional dwelling unit to the main house.

Mr. Powers said that having read these over time, the Attorney General's Office is not shy about using the phrase "this may not survive challenge", adding that they did not indicate that in this case. He added that he will get this information to Town Counsel.

Mr. Powers noted that the balloon bylaw would go into effect on September 15, 2023, and that the town is now on warning regarding the prohibition. The plastic reduction bylaw would not go into effect until September 1, 2024.

Ms. Anderson asked if we have any obligation to let the businesses now. Mr. Powers responded that we would start working through various departments to make everyone aware.

CONTRACTS

- A. Approve a contract with JJS Universal Construction Company in the amount of \$120,000 for the replacement of the Brooks Free Library Roof

Mr. MacAskill moved to approve a contract with JJS Universal Construction Company in the amount of \$120,000 for the replacement of the Brooks Free Library Roof, 2nd by Ms. Kavanagh and approved 4-0-0.

- B. Approve a contract change order for the Brooks Academy Museum Basement Renovation project with Campbell Construction Group, LLC to deduct \$10,991 from the original \$1,189,000 contract

Mr. Handler moved to approve a contract change order for the Brooks Academy Museum Basement Renovation project with Campbell Construction Group, LLC to deduct \$10,991 from the original \$1,189,000 contract, 2nd by Ms. Kavanagh and approved 4-0-0.

TOWN ADMINISTRATOR'S REPORT

Mr. Powers announced the appointment of Randy Ellis who is the custodian that will be assigned to the Harwich Community Center. This position was funded at our last Town Meeting and will be a dedicated resource at the Community Center.

Mr. Powers reported that he has executed a contract with RJ Gabriel Construction Company related to the Sand Pond Recreation Area. The bids came back in a range of \$37,000 to \$79,000. The contract was awarded in the amount of \$37,700. The septic installation will be the last major part of the project at Sand Pond.

Mr. Powers said we now have a contract with LHS Associates, which is critical to the Town Clerk. This is for the purchase of 6 voting tabulators and was a straight process through Chapter 30B. The price is \$26,960 and includes the trade in of our existing tabulators. These machines will be in place for federal elections which start in the spring. Mr. Powers thanked former Interim Town Clerk Jim Mullin who secured some of the funding for this when he was in Harwich.

Mr. Powers reviewed the contract extension with Richard Mandell Golf Architecture. The extension is for time and not the dollar amount and has been extended through the end of the fiscal year.

Mr. Powers congratulated everyone that has started the new school year.

Mr. Powers has been working with staff and have started tracking the time until the next Town Meeting. He would like to be able to present at the next Select Board meeting a potential 5-year outlook and potential plan to begin discussions on warrant articles.

SELECT BOARD'S MEMBER REPORT

Ms. Kavanagh thanked Ms. Williams, Ms. Carey, Ms. Hewitt and Mr. Munday for the amount of events that were introduced tonight during public comment.

Mr. Handler thanked the Monomoy school system for making the first day of school a success.

Mr. MacAskill mentioned the sale of the lot on Queen Anne Road. The bid was awarded at \$1.5 million dollars with the following bid at \$1.3 million dollars. He would like to have a discussion at the next meeting on where those funds will go.

Mr. MacAskill noted that we did have one bid regarding the Baptist Church and that he would like to have an upcoming Executive Session discussion about it.

Ms. Anderson said that she was invited by Bruce Young to go on a tour of the former fire station project on Bank Street. She commented on what a great project it is and that donations will be gratefully accepted.

CORRESPONDENCE

No correspondence was discussed.

ADJOURNMENT

Mr. Handler moved to adjourn the meeting, 2nd by Mr. MacAskill and approved 4-0-0.

Respectfully submitted,
Jennifer Clarke
Recording Secretary