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MINUTES
SELECTMEN'S MEETING
TOWN HALL
MONDAY, JUNE 27, 2022
5:30 P.M. - EXECUTIVE SESSION
6:30 P.M. - REGULAR MEETING
REMOTE PARTICIPATION OPTIONAL

SELECTMEN PARTICIPATING: Michael MacAskill, Larry Ballantine, Mary Anderson & Julie Kavanagh

ALSO PARTICIPATING: Town Administrator Joseph Powers

Ms. Anderson moved that the Board go into Executive Session to discuss items as listed below, 2nd by Mr. Ballantine. The vote was 4-0-0 with Mr. MacAskill, Mr. Ballantine, Ms. Anderson & Ms. Kavanagh all voting aye by roll call.

EXECUTIVE SESSION

- A. Pursuant to MGL, c. 30A section 21 (a) paragraph 2 to conduct strategy sessions in preparation for negotiations with nonunion personnel and contract negotiations for nonunion personnel – position of Finance Director/Town Accountant – Ann Marie Ellis
- B. Pursuant to MGL, c. 30A section 21 (a) paragraph 2 to conduct strategy sessions in preparation for negotiations with nonunion personnel and contract negotiations for nonunion personnel – Town Administrator – Joseph F. Powers
- C. Pursuant to MGL c.30A section 21 (a)(3) to discuss with respect to collective bargaining for all town unions and the Chair has determined that open session would have a detrimental effect on the town's bargaining position

CALL TO ORDER

Mr. MacAskill called the meeting back to order following Executive Session. The Board discussed all 3 items as listed.

PUBLIC COMMENTS/ANNOUNCEMENTS

Community Center Director Carolyn Carey was present and announced that a community yard sale is being held at Brooks Park on August 5, 2022 with a rain date of August 6, 2022. Signups can be done at the Community Center. In addition, the Community Center will be offering a number of mini-series items. The first will be a free college essay writing workshop.

With a heavy heart, Mr. MacAskill announced the passing of Jack Brown. Mr. Brown was very involved in the community and will be greatly missed.

Mr. Ballantine noted that Mr. Brown had a long tenure with the community and provided a lot of assistance town wide.

Ms. Anderson noted that this is the loss of a true town treasure.

Ms. Kavanagh stated that she met Mr. Brown in 2016 but feels that she knew him for longer than that. Mr. Brown did so much for the town and this will leave a huge hole in the town.

Mr. Powers stated that Mr. Brown provided him with a lot of good information. He was a good man who did well and left a great legacy. Thoughts and prayers were given to Mr. Brown's family.

A. Wastewater update from Dan Pelletier, Water and Wastewater Superintendent

Mr. Powers stated that one of the things that will be discussed tonight is the virtual meeting that took place between himself, the Water and Wastewater Superintendent, Health Director and the Massachusetts Department of Environmental Protection Southeast Regional Office. MA DEP is reaching out to all Cape Cod communities and any communities that have waterbodies that are impacted by nitrogen. One of the major items in the discussion was that through the Governor's directive, they are looking to modify regulations and they will soon be entering a comment period. The regulations are looking to shorten the window on nitrogen abatement which would shorten our window for compliance from 40 years to 20 years. While these are draft regulations, we have every expectation that they will be passed in the form that they are being considered.

Water/Wastewater Superintendent Dan Pelletier was present with Russ Kleekamp from GHD. There are 2 components that are being suggested for change. One is a change to the existing Title 5 regulations where they are looking to expand the definition of a nitrogen sensitive area. The proposal is to look to include any embayment or sub-embayment subject to the Total Daily Maximum Load (TMDL). Municipalities will have 2 options; one would be to do nothing, which would institute a 5-year window that would require that all septic systems be upgraded to include Innovative/Alternative Technology, not just for new construction. The other option would be for the town to pursue a watershed permit for each of the 5 watersheds in Harwich. If we move forward with the permit option, we would have 20 years for completion. Within the 20 years, we need to demonstrate removal of 75% of the total nitrogen required to achieve our TMDL.

Mr. Kleekamp stated that throughout his career, he has seen regulation changes. . What is different with this one is that we were not given much notice. You can imagine what the challenges will be of condensing a 40-year project into 20 years and we need to figure out what the means for Harwich. DEP Will be making an in person visit. After that is done, we will need to look at taking advantage of any and all financial options for Harwich. The money that is or will be available will not go far in the world of wastewater. He asked for more time for them to think about the best way to proceed. They will need to look at what these changes mean for the town as far as sewer phasing is concerned.

Mr. Ballantine commented that this is a bombshell and that there needs to be a lot of thought given to it. He asked what the time frame is on the watershed permit and Mr. Pelletier responded it is a 20-year permit. Mr. Ballantine added that at previous meetings, there had been a lot of pressure to add to the CWMP the freshwater ponds. It is important to note that freshwater ponds were not left out on purpose and that it was because of the regulatory process of the embayment. Mr. Ballantine asked for Mr. Kleekamp's thoughts on that. Mr. Kleekamp responded that there had been numerous requests to expedite the process to include the Great Sand Lakes in the plan. We need to look at what is available out there as far as grants, etc. Mr. Pelletier added that we are really in unprecedented times with respect to construction in general. Shortening this timeline coupled with

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the difficulty of getting parts, we are really going to need to rethink our approach on this. He added that the rephrasing that was already being planned may need to be done in a completely different phasing schedule. Mr. Pelletier did ask DEP what these changes will mean for freshwater ponds and their response was that they don't have the data that links septic systems as a point source of phosphorus. Mr. Pelletier stated that if Harwich does not pursue a watershed permit, it will require that every system in the watershed be upgraded to include Innovative/Alternative technology. DEP has laid this out in a way that leaves us with really only one option.

Ms. Kavanagh feels that it would make more sense to go with the watershed permitting option and that it is very clear what the intention of DEP is. We are looking at the long term protection of drinking water as well as the reduction of nitrogen and maybe this is how we are being forced to recognize how important water is.

Mr. Pelletier stated that one of the conditions that they talked about during the call was the ability to go beyond the 20-year deadline. The one thought that he brought up was with respect to the Cold Brook Restoration Project that we are about to embark on. We will need time to complete that project in order to determine how much nitrogen needs to be removed from the Saquatucket watershed. That might buy us time for at least 1 of the 5 watersheds.

Ms. Anderson wondered if going forward, there might be any consideration given to maybe a 30-year deadline. Mr. Kleekamp responded that in his opinion, the actions that are being taken are the result of the CLF lawsuit that was filed a few years back. As of now, we need to think about how Harwich can get this done in 20 years, and if we get a break, so be it.

Mr. MacAskill asked if there is any time frame on when DEP will be coming before the Board. Mr. Kleekamp responded that it might be in a month or so.

Mr. Kleekamp stated that the ARPA portal is now open. At one time, we were expecting an amount of 2.5 million dollars for Harwich. We are now seeing an amount of \$216,000. These funds are to be set aside for wastewater needs. It might make sense to use the funds for the design of the Great Sand Lakes sewer system. He would like to ask for the Board's consent if that is something that they would like to pursue. Mr. Powers stated that this is something that will be coming back before the Board next month.

Mr. Pelletier said that we are currently in design for phase 3 of the sewer project. He met with the Clean Water Trust 2-3 weeks ago to talk about the phase 3 timeline. One thing that was discussed was bidding the construction prior to Town Meeting. The SRF Clean Water Trust advised us against bidding prior to Town Meeting, which is unfortunately a conflict with what the town was hoping to do with Phase 2. We will be eligible for 25% principal forgiveness as well as additional forgiveness because we are a tier 1 disadvantaged community. For round numbers, we were notified that we would receive approximately 5.5 million dollars off of the Phase 2 construction. It looks like we can anticipate that moving forward with Phase 3. Mr. Pelletier knows that there has been some discussion about a potential fall Town Meeting. It would be his recommendation that included in that Town Meeting be attempting to secure any easements that we may need for pump station sites so in the following spring we can appropriate construction funds. Mr. Pelletier reviewed possible pump station sites and a conversation that has been started with a property owner on the corner of Route 28 and Depot Road. Mr. Pelletier commented that the potential pump station location at the Herring River Bridge is no longer a viable option. To say on the DOT timeline, we need to start conversations with property owners about securing easements.

Lastly, one other project that they have stated investigating are effluent recharge sites in town. They are currently looking at a recharge site at the DPW property as well as a site adjacent to the DPW and land within a 2 mile radius.

Mr. Pelletier hopes to pull everyone together for a dedicated wastewater meeting. Mr. Ballantine suggested meeting early in the fall to have the best chance for participation.

In upcoming conversations, Ms. Anderson would like to see if we can talk more about a possible partnership with Dennis. She thinks it would be wise to see if there is a way to share a big part of the expense. Ms. Kavanagh agreed with any regional approach to save money. She asked if there is a definitive map on Phase 3. Mr. Pelletier responded that one is not ready yet, they are still trying to run the nitrogen balance.

Mr. MacAskill asked that Mr. Pelletier send him a timeline and action items for the Board to review. He asked when we can expect to receive the 5.5 million for Phase 2. Mr. Pelletier responded that after both contracts are completed and the loans go to full term borrowing is when the principal forgiveness will come off. Mr. MacAskill commented that it would be nice that if we do have a fall Town Meeting that we can show the voters what we are going to be saving.

B. National Opioid Settlement

Mr. Powers reported that Harwich has been informed that they will be receiving an allocation of just over \$600,000 beginning this calendar year and extending through 2038. It would be a payment that starts in the high \$60,000 and moves out to the high \$20,000-low \$30,000 amounts. Mr. Powers knows that there are a lot of advocacy groups that would be looking to use these funds to act upon the opioid crisis. He knows that Youth Counselor Sheila House and several others would like to come before the Board during one of their summer meetings. Mr. Powers added that this is an abatement for the town to use as they see fit.

Ms. Kavanagh wants us to look at where these funds can do the most good.

Ms. Anderson asked how they came up with the distribution amounts. Mr. Powers responded that we don't have much background information yet.

C. Open Meeting Law training to be held July 26, 2022 in the Griffin Room at Town Hall

KP Law Attorney Janelle Austin, Town Clerk Emily Mitchell and Mr. Powers will be holding 2 open meeting law trainings to be held from 2-5 p.m. and 6-8 p.m. on July 26, 2022. This invitation is being broadcast to all boards, commissions and committee members.

D. Announcement – Board of Selectmen will begin their Summer Schedule on July 11, 2022

Mr. Powers stated that this is the last meeting of the non-summer schedule. Beginning on July 11, 2022, the Board will be working on their summer schedule. Meetings will be held every Monday beginning at 6:00 p.m. Mr. Powers reviewed the schedule dates as presented in the packet.

CONSENT AGENDA

A. Vote to approve the following Board of Selectmen Meeting Minutes:

1. February 14, 2022

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2. March 7, 2022

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

NEW BUSINESS

A. Vote to conduct an interview in consideration of appointment of Ann Marie Ellis for Finance Director/Town Accountant

Mr. Powers was pleased to introduce Ann Marie Ellis for consideration of appointment as the Finance Director/Town Accountant. Ms. Ellis comes to Harwich with a great amount of academic and professional experience. Mr. Powers recommended that the Board appoint Ms. Ellis for the position of Finance Director/Town Accountant.

Mr. MacAskill stated that the Board met earlier tonight in Executive Session regarding contract negotiations for this position. He is comfortable with the process that Mr. Powers has provided and that this is the right way to go.

Mr. Ballantine stated that he looks forward to having Ms. Ellis work for the town.

Ms. Anderson commented that Ms. Ellis has exceptional people skills and the ability to motivate people and that she is thrilled to bring her on board.

Ms. Kavanagh echoed Mr. Ballantine and Ms. Anderson's comments. Ms. Ellis brings a wealth of knowledge that the town needs and her people skills are very important as well.

Ms. Ellis stated that she looks forward to starting soon and bringing forward everything that she can.

Ms. Kavanagh moved to appoint Ann Marie Ellis as Finance Director/Town Accountant effective July 14, 2022 contingent upon a successful pre-employment physical, CORI check and completion of contract negotiations, 2nd by Ms. Anderson and approved 4-0-0.

B. Update the Personnel Bylaw classification and compensation tables

In the packet is a memo provided from Assistant Town Administrator Meggan Eldredge. The memo is specific to the Personnel Bylaw classification and compensation tables. Mr. Powers stated that the Town was successful in entering into a 3-year contract with the Firefighters Association. With that agreement was a cost of living adjustment of 2%. Mr. Powers is asking the Board to carry that 2% forward for the PBL employees. Based on the votes of Town Meeting, Mr. Powers asked the Board to look at updating the non-union compensation table. Mr. Powers reviewed the information that was provided in the packet. He did point out a scribner's error on the seasonal hourly wage schedule.

Ms. Anderson moved to adopt the 2% cost of living adjustment for the Personnel Bylaw employees effective July 1, 2022 and approve the other language changes made in the documents provided, 2nd by Ms. Kavanagh and approved 4-0-0.

C. Authorize the preparation and submission of various applications for various grant opportunities related to 0 Spruce Road aka the Copelas properties

Ms. Anderson moved to authorize the preparation and submission of various applications for various grant opportunities related to 0 Spruce Road aka the Copelas properties and authorize the Chairman and Town Administrator to sign, 2nd by Ms. Kavanagh and approved 4-0-0.

D. Vote to approve the following Special Permits for Harwich Cranberry Festival to be held at 204 Sisson Road;

1. Event Permit – July 7, 14, 21, 28 and August 4, 2022

Ms. Anderson moved to approve the special permit for Harwich Cranberry Festival to be held at 204 Sisson Road event permit on July 7, 14, 21, 28 & August 4, 2022, 2nd by Ms. Kavanagh and approved 4-0-0.

2. One Day Wine and Malt License for July 7, 14, 21, 28 and August 4, 2022

Ms. Anderson moved to approve the special permit for Harwich Cranberry Festival for one day wine and malt license for July 7, 14, 21, 28 & August 4, 2022, 2nd by Ms. Kavanagh and approved 4-0-0.

3. Waiver of Fees associated with One Day Wines and Malt License and Event Permit

Ms. Anderson moved to approve the waiver of fees associated with one day wine and malt license and event permit for Harwich Cranberry Festival to be held at 204 Sisson Road, 2nd by Ms. Kavanagh and approved 4-0-0.

Ed McManus was present. Mr. MacAskill asked if they rent the space or if it is donated. Mr. McManus responded that they rent it. For the first couple of years they did ask for a waiver of the rental fee. As they built up a following for the concerts, it improved their revenue and has allowed for them to pay the fee. Mr. MacAskill commented that he is not a fan of waivers, but is supporting this because they pay for the rental.

Mr. McManus passed along his condolences about the passing of Jack Brown.

E. Vote to approve a 2022 Innholders license renewal – Allen Harbor Rentals d/b/a Allen Harbor Inn, Inc. – 326 Lower County Road – *Pending Health Department Approval*

Ms. Anderson moved to approve a 2022 Innholders license renewal – Allen Harbor Rentals d/b/a Allen Harbor Inn, Inc. – 326 Lower County Road – Pending Health Department Approval, 2nd by Ms. Kavanagh and approved 4-0-0.

F. Vote to update the Board of Selectmen policy for approval of municipal contracts

Mr. Powers stated that this is a result of a previous Board discussion. In the packet, the Board was provided with a modified policy. If adopted, this would direct the Town Administrator to be able to approve any supplies and services which is covered under Chapter 30B. It would also authorize him to execute other contracts that fall under Chapter 7C, Chapter 149 and Chapter 3039M. Mr. Power reviewed the categories of each chapter.

Ms. Kavanagh stated that the Board has talked about this in the past and that she is comfortable with what is being presented. Ms. Anderson agreed and commented that the Board had discussed a \$75,000 cap.

Mr. MacAskill asked if this would require a public hearing as it is a change in policy. Mr. Ballantine responded that it is an internal policy. Mr. Powers added that it is a Board policy.

Ms. Kavanagh moved to approve the updated the Board of Selectmen policy for approval of municipal contracts with \$75,000 be placed under one number for approval and that \$75,000 and over would require Board review and approval, effective July 1, 2022, 2nd by Mr. Ballantine and approved 4-0-0.

G. Vote to appoint one candidate from Republican Town Committee list below to the Board of Registrars for a term to expire June 30, 2025

1. Eric Carroll
2. Gayle Carroll
3. Mary Ann Pina

Ms. Anderson moved to appoint Mary Ann Pina to the Republican Town Committee with a term to expire on June 30, 2025, 2nd by Ms. Kavanagh and approved 4-0-0.

H. Vote to appoint the following designees to the Community Preservation Committee:

1. Katherine Green – Real Estate and Open Spaces – Term to expire June 30, 2024
2. David Nixon – Recreation and Youth Commission – Term to expire June 30, 2023

Ms. Anderson moved to appoint Katherine Green-Real Estate and Open Space Committee with a term to expire on June 30, 2024 and David Nixon-Recreation and Youth Commission with a term to expire on June 30, 2023, as designees to the Community Preservation Committee, 2nd by Ms. Kavanagh and approved 4-0-0.

I. Vote to appoint the following designees to the Community Center Facilities Committee:

1. Vahan Khachadorian – Recreation and Youth Commission – Term to expire June 30, 2025

Ms. Anderson moved to appoint Vahan Khachadorian- Recreation and Youth Commission with a term to expire on June 30, 2025 to the Community Center Facilities Committee, 2nd by Ms. Kavanagh and approved 4-0-0.

OLD BUSINESS

- A. Update on Judah Eldredge Property
- B. Update on 70 Willow Street Property

Mr. Powers stated that the Judah Eldredge Property was an effort that arose out of a Community Preservation Committee application from 2018 Town Meeting. It languished a few years because the town did not have the funds to do the necessary tax title research and survey work. Recently, this matter was brought before the Community Preservation Committee, who unanimously voted to use CPC administration funds to move forward.

Mr. Powers reported that even though there were claims of a clear title for the 70 Willow Street property, we have reason to believe that there isn't a clear title. It has been recommended that the town should avail themselves of tax title and survey services so we have no issues if we choose to sell the property. Now that we have the template and the funding, these are the first 2 projects that should be looked at.

The Board gave their general consensus to move forward.

CONTRACTS

A. Farrell Electric, Inc. for the electrical work at Veterans Memorial Circle in the amount of \$36,525.00

Ms. Anderson moved to approve the contract for Farrell Electric, Inc. for the electrical work at Veterans Memorial Circle in the amount of \$36,525.00, 2nd by Ms. Kavanagh and approved 4-0-0.

B. Sale of 203 Bank Street

Mr. Powers stated that there are some outstanding questions that he is wanting to run by Town Counsel, which are what he believes minor informalities, but in any case, would like their input. There is also an item relating to another proposer that invokes an IRS tax code. Mr. Powers reported that there are 2 proposers for the property. One being Olga Realty Trust and the other being Harwich Firefighters Association in partnership with Harwich Conservation Trust.

Ms. Anderson said that she is very grateful for Leo Cakounes for coming forward with the 2nd bid and that she respects that he has interest in the Town. She feels that HFA and HCT have put in a mountain of time and effort into this and would like to see the project be awarded to them.

As Chief Procurement Officer, Mr. Powers needs to finalize the process and then will come back to the Board with a recommendation for a vote. He added that he is motivated by what needs to be done for the town.

Mark Kelleher was present and asked that whatever decision the Board make, he hopes they choose the entity that will pay the largest amount of taxes to the town so that the tax payers will not have an additional burden.

Mr. MacAskill asked that given one party is Harwich Conservation Trust, would they be tax exempt. Mr. Powers responded that the proposal does not get into those details.

President of the Harwich Firefighters Association Bruce Young was present. They have talked about paying taxes on the property but are unsure given their non-profit status, where it will go with the town.

President of Harwich Conservation Trust Tom Evans was present. Their proposal is unique to this property because the property will include the fire station, which HFA wants to renovate as a museum with a possible apartment upstairs. On a matter of costs, he asked the Board to consider the fact that these 2 non-profits have been around for a very long time. Both organizations depend on raised monies to accomplish their missions and when they raise money, the funds get plowed back into the town. Mr. Evans briefly talked about the money that will be saved as part of the Cold

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Brook Restoration Project. He would make the argument that the financial benefit to the town needs to be look at more broadly than just the tax revenue.

Richard Waystack was present and stated that he feels it is premature to get into the tax questions. The RFP for this project had 4 different criteria that needed to be addressed.

Mr. MacAskill stated that this will be back on the July 11, 2022 agenda.

TOWN ADMINISTRATOR'S REPORT

Mr. Powers announced that starting tomorrow, he will be out of the office until July 6, 2022.

SELECTMEN'S REPORT

Ms. Kavanagh wished everyone a happy July 4th holiday.

Mr. Ballantine asked about the RFP for the food truck at Red River Beach, noting that it seems late in the season. Mr. Powers responded that the original respondent backed out. Staff was able to get a new RFP released and we are hoping to have someone as soon as possible.

CORRESPONDENCE

No correspondence was discussed.

ADJOURNMENT

Ms. Anderson moved to adjourn the meeting of the Board of Selectmen, 2nd by Mr. Ballantine and approved 4-0-0.

Respectfully submitted,
Jennifer Clarke
Recording Secretary

