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HARWICH, MA

2022 APR 26 P 2:08

**MINUTES**  
**SELECTMEN'S MEETING**  
**MONDAY, AUGUST 23, 2021**  
**5:15 P.M. - EXECUTIVE SESSION**  
**6:00 P.M. - REGULAR MEETING**

RELEASED

APPROVED

**SELECTMEN PARTICIPATING:** Michael MacAskill, Larry Ballantine, Donald Howell & Mary Anderson

**ALSO PARTICIPATING:** Town Administrator Joseph Powers

**CALL TO ORDER**

Chairman MacAskill called the meeting to order at 5:15 p.m. with Executive Session.

**EXECUTIVE SESSION**

- A. Executive session pursuant to G.L. c. 30A, s. 21, purposes (1) and (7)(Open Meeting Law)- Open Meeting Law complaint from Attorney Raymond H. Tomlinson, Jr. on behalf of the Port Restaurant and Bar, Inc. dated August 5, 2021, acknowledgement of the Open Meeting Law complaint against the Board of Selectmen, discussion and response to same; votes may be taken
- B. Pursuant to MGL,c.30A section 21 (a) paragraph 3 to discuss with respect to collective bargaining for all town unions if an open session would have a detrimental effect on the town's bargaining position and the chair so declares; including, but not limited to International Associations of Machinists and Aerospace Workers (IAMAW)

Following Executive Session, the Board began open session. Mr. MacAskill stated that discussions for Executive Session agenda item A will be continuing and the Board voted to accept the recommendation from attorneys for Executive Session agenda item B.

**OLD BUSINESS**

- A. Discussion and possible vote to support the Local Initiative Program (LIP) for Chloe's Path affordable housing development-*Applicant has requested a continuance to October 4, 2021*

Mr. MacAskill stated that the applicants have asked for a continuance until the October 4, 2021 Board of Selectmen's meeting.

**PUBLIC COMMENTS/ANNOUNCEMENTS**

- A. Update – Cape Light Compact on available programs

Cape Light Compact Administrator Maggie Downey was present to update the Board on Cape Light Compact activities. Ms. Downey showed the impacts of the energy efficiency program since the program started running in 2001. 350 million dollars has been reinvested, saving 5.18 billion kWh which is a total benefit of 1.2 billion dollars. Harwich currently has a total of 6,747 participants. Ms. Downey provided energy efficiency updates including the response to economic needs due to COVID-19. In April 2021, Cape Light Compact did their Main Streets Program in Harwich. They worked with vendors and went door to door to businesses. They were able to serve 24 participants and brought back \$164,000 in incentives which had a significant kw/hour savings.

Ms. Downey reviewed the 2021 residential rebates including oil and propane heating, electric HVAC and energy star appliances. She noted that the programs will continue to evolve as we respond to the recently passed climate bill.

Renter and income eligible offers are available for residents with certain income levels.

Cape Light Compact is in the last year of their 4<sup>th</sup> 3 year plan. They are proposing a pilot program called Cape and Vineyard Electrification Offering which is pending before the Department of Public Utilities. In the next plan, residents will see not only energy reductions, but greenhouse gas reductions which will be delivering new programs and measures.

Ms. Downey commented that the CLC was sent notification from the USDA about a rural energy savings program loan. They were invited to submit an application for a 4.9 million dollar solar loan program. It would establish a solar loan program for residential and small businesses on Cape Cod and Martha's Vineyard. Loan amounts would be up to \$50,000 with a 10 year term and 2.25% interest rate.

Mr. Ballantine asked if it would be possible to get a financial statement of revenue coming in and costs so that we have a better idea of what is going on with rebates. Ms. Downey responded that she would send Mr. Ballantine the information and added that they keep financial information updated on their website.

Mr. Howell commented that we are the only place that is taking care of ourselves. He is happy that this is a homegrown system and not dependent on one of the power companies.

- B. Announcement of the Candidates' Forum for the Special Election being held on September 21, 2021

Harwich Voter Information Committee Chair Chris Joyce was present. On September 21, 2021 at 6:00 p.m. in the Griffin Room, the committee will be hosting a candidate's forum for the Board of Selectmen vacancy. The last day to vote in this special election is September 1.

- C. Announcement of a Board of Selectmen Meeting dedicated to Wastewater on August 30, 2021

Mr. MacAskill announced that the Board of Selectmen will be having a meeting dedicated to wastewater on August 30, 2021 at 6:00 p.m. in the Griffin Room.

- D. Announcement - Jake's at the Harbor will be opening Saturday, August 21, 2021

Mr. MacAskill announced that Jake's at the Harbor opened to the public on August 21, 2021.

#### **CONSENT AGENDA**

- A. Vote to approve the resignation of Arthur Rouse from the Planning Board
- B. Vote to approve the Special Town Election Warrant for Tuesday, September 21, 2021

**Ms. Anderson moved to approve the consent agenda as listed above, 2<sup>nd</sup> by Mr. Howell and approved 4-0-0.**

#### **NEW BUSINESS**

- A. Harwich Community Playground located at Harwich Elementary School
  - a. Vote to accept the Monomoy Regional School District donation of \$57,519.51

**Mr. Ballantine moved to accept the Monomoy Regional School District donation of \$57,519.51, 2<sup>nd</sup> by Mr. Howell and approved 4-0-0.**

- b. Vote to award the contract for construction to Design Built LLC, D/B/A Childscapes in the amount of \$317,000.00

Mr. Ballantine's question early on was how comfortable the Board was this the proposed design. He has seen that the project was voted at Town Meeting and that the procurement process was followed to the letter, so he would be comfortable moving forward. Ms. Anderson agreed.

Mr. Howell commented that this is something that has to happen for the kids and should have happened a while ago. He stated that he is disturbed by someone getting paid for the project at the front end and then at the tail end with the procurement. To him, the problem with playground equipment is that everyone is different in terms of their construction materials.

Mr. Powers drew the Board's attention to the information provided in their packet. He had instructed the Assistant Town Administrator to contact the Attorney General's office regarding the bid. The Attorney General's Office confirmed that the bid process was compliant. Mr. Powers recommended that the Board move forward and approve the big as outlined.

**Ms. Anderson moved to award the contract for construction to Design Built LLC, D/B/A Childscapes in the amount of \$317,000.00, 2<sup>nd</sup> by Mr. Ballantine and approved 3-1-0 (Howell).**

- B. Discussion and possible vote to review and amend Section 1.17 – Disciplinary Guidelines of the Harwich Board of Selectmen liquor license regulations to include a language change from “third offense” to “third and subsequent offenses”

Mr. MacAskill stated that the Board has taken this up twice and was waiting to hear back from Town Counsel to find out if a public hearing was needed. It was confirmed that no public hearing was needed.

**Ms. Anderson moved to review and amend Section 1.17 – Disciplinary Guidelines of the Harwich Board of Selectmen liquor license regulations to include a language change from “third offense” to “third and subsequent offenses”, 2<sup>nd</sup> by Mr. Howell and approved 4-0-0.**

- C. Discussion and possible vote to approve a one day wine and malt license for the Harwich Cranberry Arts and Music Festival to be held on September 18, 2021 and September 19, 2021 – 100 Oak Street

Ed McManus was present and stated that the festival is moving forward. He added that beach day will be held at Red River Beach on September 11. The only thing that might hold up beach day is the lack of volunteers. The Cranberry Festival Committee will be having a meeting on August 31 at 5:00 p.m. at Brooks Park. If anyone wants to volunteer, that would be a good time to show up.

**Ms. Anderson moved to approve a one day wine and malt license for the Harwich Cranberry Arts and Music Festival to be held on September 18, 2021 and September 19, 2021 – 100 Oak Street, 2<sup>nd</sup> by Mr. Howell and approved 4-0-0.**

D. Discussion and possible vote to approve a one day entertainment license for the Harwich Historical Society – September 6, 2021 – 12:00 p.m. to 2:00 p.m. – Live music inside and outside – 80 Parallel Street

**Ms. Anderson moved to approve a one day entertainment license for the Harwich Historical Society – September 6, 2021 – 12:00 p.m. to 2:00 p.m. – Live music inside and outside – 80 Parallel Street, 2<sup>nd</sup> by Mr. Howell and approved 4-0-0.**

E. Discussion and possible vote to approve the event application for the Harwich Chamber of Commerce's Parade to be held on September 12, 2021 at 11:30 a.m.

**Ms. Anderson moved to approve the event application for the Harwich Chamber of Commerce's Parade to be held on September 12, 2021 at 11:30 a.m., 2<sup>nd</sup> by Mr. Howell and approved 4-0-0.**

F. Discussion and possible vote to approve the event application for the Harwich Chamber of Commerce's Fireworks to be held on September 18, 2021 at 8:00 p.m.

Mr. Powers distributed to the Board, the Chamber of Commerce and the Chronicle a memo from 2 years ago regarding the use of fireworks in certain well areas. The request for fireworks is consistent with previous firework locations. The location does conflict with the local zoning bylaw. It was the intent of the town to rescind the bylaw, but since we have not had a normal town meeting, it will be contemplated in the future.

Chamber of Commerce Executive Director Cyndi Williams was present and commented that they have decided to move forward with activities. The parade Grand Marshall will be retired Fire Chief Norm Clarke. The theme of the parade is celebrating Harwich's 7 villages. Ms. Williams thanked the wonderful sponsors who helped raise the money and funds for these events to take place.

Mr. Howell hopes that the Board of Selectman can have representation in the parade. Ms. Williams invited and welcomed them all. She added that 1 of the 3 Selectmen's candidates have reached out and filled out the form to be in the parade.

**Ms. Anderson moved to approve the event application for the Harwich Chamber of Commerce's Fireworks to be held on September 18, 2021 at 8:00 p.m., 2<sup>nd</sup> by Mr. Howell and approved 4-0-0.**

G. Discussion and possible vote on setting a special Town Meeting in the Fall 2021

Mr. Powers drew the Board's attention to the article to consider amendments to the Monomoy Regional School District. He spoke with Monomoy Superintendent Dr. Carpenter and confirmed that any amendments to the agreement must be disposed of at an Annual Town Meeting.

Mr. Powers also asked the Board to consider the amendments to the demolition delay bylaw. He spoke with the Historic District Historic Committee Chair and she indicated that they are very much interested in having the article on the warrant.

After speaking with the Town Clerk and Town Moderator, they have both confirmed their availability for a Special Town Meeting on Monday, October 18, 2021 at 6:30 p.m. to be held at the Harwich Community Center. Obviously, the plan is subject to change as we continue to deal with the pandemic.

Mr. Powers outlined potential warrant articles.

Mr. Howell wanted to remind everyone that the charter itself calls for the review of the bylaw and charters and that they need to be submitted to the Charter Review Committee. Mr. Powers responded that he will be attending their next meeting and will communicate this information.

Mr. Ballantine asked to make sure that the Conservation Commission bylaws are discussed to make sure that they have enough time to get it out to the public. He also asked for staff to confirm if the school agreement truly cannot go to a Special Town Meeting. Mr. Powers responded that he understands it to be a certainty that the agreement would need to go to an Annual Town Meeting.

**Mr. Howell moved to call a Special Town Meeting to be held on October 18, 2021 at 6:30 p.m., 2<sup>nd</sup> by Mr. Ballantine and approved 4-0-0.**

#### H. Discussion on next steps for updating the Local Comprehensive Plan (LCP)

Director of Community Development and Planning Jon Idman was present. Mr. Powers stated that he had an all hands Department Head meeting last Thursday to alert them that this discussion was going to be taking place.

Mr. Idman took the Board through a little education about master plans and local comprehensive plans. The Town first did a master plan in 1969 1993, 2000 and then in 2010. What we are really talking about is an update to the plan. The Cape Cod Commission cannot require any town on Cape Cod to do a Local Comprehensive Plan. Through the CCC, the towns can ask for assistance to make sure that their master plan is consistent with the regional plan. 10 years is the period that you should look to update the plans.

We have not yet gone to RFP to hire a consultant to assist us with the plan. We have about \$200,000 encumbered for this project. The general time frame for LCP update is around 2 years. Stakeholder engagement is really important for this plan. The LCP ultimately has to be the plan that expresses the voice of everyone in our town.

Mr. Powers stated that he would be looking to the Board as to how they wish to engage this process and how quickly. While we would be relying on outside experts, it would be a locally crafted document.

Mr. Howell commented that the last LCP was tilted towards building. The plan really has to be owned by the citizens as it is the roadmap to actual projects. Mr. Ballantine added that this is a # 1 priority as a town effort and a great chance to have public engagement.

Mr. MacAskill asked if we could do the housing production plan simultaneously. Mr. Idman responded that he doesn't think that it would be realistic given the resources needed for the LCP. Mr. MacAskill would like to see a draft of the RFP for the Board's September 7 meeting.

#### I. Discussion on the 2022 Request for Proposal for the Saquatucket Harbor Snack Shack

Mr. MacAskill stated that there has been a lot of interest voiced in the 5-year lease for the snack shack.

Mr. Powers noted that both of our town property restaurant locations will have their leases expire in the same time frame. He has been contemplating an RFP that would get to both locations, adding that the

respondents do not have to do both location. The plan is to release the RFP by mid-October with the hopes of having something come back to the Board by the end of the calendar year.

Mr. Ballantine would like to make sure that the process does not dictate the business end of the operations.

#### **OLD BUSINESS – CONTINUED**

##### **A. Chatham – Harwich Wastewater Inter Municipal Agreement (IMA) proposed Amendments**

###### **1. Discussion and possible vote to approve Amendment No. 1**

Mr. Powers stated that the Inter Municipal Agreement amendment no. 1 that is being proposed is for the request of the Chatham Select Board, who is scheduled to take it up at their meeting tomorrow night. Harwich is seeking from Chatham an opportunity to change the capacity purchase fee. The Harwich Selectmen have read and understand the proposed amendment.

Mr. Ballantine added that the amendment is to Harwich's benefit and that he hopes Chatham will approve the request.

**Mr. Ballantine moved to approve the proposed Amendment No. 1, 2<sup>nd</sup> by Ms. Anderson and approved 4-0-0.**

##### **B. Discussion on where to allocate funds of Short Term Rental Tax and increase by 2%**

This discussion has been before the Selectmen 2 times and has been declined both times. During previous discussions, the Board has discussed where the funds should be allocated.

Mr. Powers stated that if the Board is contemplating the increase, then it has to be across all hotel, motel and short term rentals. There are currently 8 communities who have increase to 6%, and 2 more are in discussions.

Mr. MacAskill commented that the Board has had serious discussions on costs including affordable housing, wastewater and other post employee benefits (OPEB).

Mr. Ballantine has voted against this increase in the past due to the fact that the funds would go into the general fund. With current discussions on dedicated funding, he we be comfortable taking this to town meeting. Ms. Anderson agreed but wondered if OPEB really needs an additional boost.

Mr. Howell asked if we can afford to take the current 4% away from the operating budget. Mr. Powers responded that he met with the Finance Director last week to take a look at the numbers and potential allocations. If the Board is considering the 2% increase, then they would want to earmark the money and have discussions of the priorities. Mr. Powers added that we need to be mindful that if the dollars are moved around, it would impact the operating budget.

Mr. Powers commented that the increase would require a vote of town meeting where the Board could set a start date for the increase. This would allow for ample notices to anyone effected.

Mr. Powers advised the Board that they could have discussions regarding funding mechanisms for waste water at their standalone meeting next week. While the money from the increase would be helpful, it won't be game changing.

Mr. MacAskill requested that staff look at the numbers of what is already being allocated for the operating budget and then look at reasonable percentages to go into affordable housing, waste water and OPEB. Ms. Anderson suggested 50% towards waste water, 25% towards OPEB and 25% towards affordable housing. Mr. Ballantine agreed.

**Mr. Ballantine moved to draft a warrant article to increase the lodging tax from 4% to 6% with funds earmarked for certain purposes, 2<sup>nd</sup> by Ms. Anderson and approved 4-0-0.**

C. Discussion and possible vote on Community Center hours of operation

Mr. Powers met with the Community Center Director, DPW Director and Assistant Town Administrator to discuss what steps need to be taken to bring the Community Center hours back to what they were pre-pandemic. The proposed hours are Monday through Friday; 6:00 a.m.-9:00 p.m., Saturday, 9:00 a.m.-4:00 p.m. and Sunday 10:00 a.m.-3:00 p.m. and Mr. Powers directed staff to further look at how we can get there. This might be the opportunity to reset expectations. We are having some issues as it relates to staffing, including custodial services. We have our current custodial staff doing far more cleanings in more buildings than before. We have heard from other communities that they are in the same position.

Ed McManus was present and encouraged the town to do whatever they can to get the building open. He is hopeful that the building can be open during the Cranberry Festival weekend. Mr. Powers responded that we may have greater short term success for the Cranberry Festival with the idea that we might be able to have outside services for that weekend.

Mark Kelleher was present and asked for the Board to consider contract cleaners.

**CONTRACTS**

A. Discussion and possible vote - Human Services Grants

*Ms. Anderson recused herself as she writes grants for the Family Pantry of Cape Cod and is paid for her work.*

*Mr. Howell stated that he is involved in one of the grants written for site law services, but is not paid and has no financial interest.*

**Mr. Ballantine moved to approve Human Services Grants as presented, 2<sup>nd</sup> by Mr. Howell and approved 3-0-0.**

B. Discussion and possible vote to execute contract with Spencer Preservation Group for the Brooks Academy Museum Structural Improvements in accordance with the Task and Fee Schedule not to exceed \$118,350.00

**Ms. Anderson moved to execute contract with Spencer Preservation Group for the Brooks Academy Museum Structural Improvements in accordance with the Task and Fee Schedule not to exceed \$118,350.00, 2<sup>nd</sup> by Mr. Howell and approved 4-0-0.**

Ed McManus was present and commented that he couldn't be more pleased that we are contracting with Spencer Preservation Group.

### **TOWN ADMINISTRATOR'S REPORT**

Mr. Powers stated that he has executed a contract on behalf of Cranberry Valley Golf Course for the necessary installation of hardware in the pump house. The contract amount was \$28,161.

Another agreement that was executed was for procurement through Barnstable County for consulting services. The dollar amount was less than \$10,000.

Mr. Powers stated that he is very grateful that the hurricane did not impact us and paid kudos to everyone in municipal government for their flexibility.

### **SELECTMEN'S REPORT**

Mr. Ballantine announced that the Treasure Chest Committee has posted a meeting for tomorrow evening in the Griffin Room.

### **CORRESPONDENCE**

No correspondence was discussed.

### **ADJOURNMENT**

**Mr. Howell moved to adjourn the meeting at 7:55 p.m., 2<sup>nd</sup> by Mr. Ballantine and approved 4-0-0.**

Respectfully submitted,  
Jennifer Clarke  
Recording Secretary