

APPROVED

RELEASED

**MINUTES
SELECTMEN'S MEETING
TOWN HALL
TUESDAY, FEBRUARY 21, 2023
5:00 P.M. - EXECUTIVE SESSION
6:00 P.M. - REGULAR MEETING
REMOTE PARTICIPATION OPTIONAL**

RECEIVED
TOWN CLERK
HARWICH, MA

026 MAR 28 A 11:30

SELECTMEN PARTICIPATING: Mary Anderson, Donald Howell, Larry Ballantine & Julie Kavanagh

ALSO PARTICIPATING: Joseph F. Powers

CALL TO ORDER

Ms. Anderson called the meeting to order at 5:00 p.m.

Mr. Howell moved that the Board of Selectmen enter into Executive session to discuss the items as listed below and that the Chair has determined that an open session would have a detrimental effect on the town's bargaining position, 2nd by Ms. Kavanagh. The vote was 4-0-0 with Ms. Anderson, Mr. Howell, Mr. Ballantine and Ms. Kavanagh all voting aye by roll call.

EXECUTIVE SESSION

- A. Pursuant to G.L. c. 30A, sec. 21(a)(2) to conduct strategy sessions in preparation for negotiations with all non-union personnel with employment agreements: Finance Director, Chief of Police, Fire Chief and Town Administrator
- B. 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; Harwich Employees Association (HEA)

Ms. Anderson called the meeting back to order. The Board did come to an agreement regarding item B and have entered into a 3-year agreement with the Harwich Employees Association that will be signed by the Board tonight.

PUBLIC COMMENTS/ANNOUNCEMENTS

Deputy Chief Kevin Considine was present and announced the upcoming polar plunge at Red River Beach on March 18, 2023 at 11:00 a.m. Deputy Chief Considine sits on the leadership council for the law enforcement torch run for the Special Olympics. They raise funds and awareness for those with intellectual disabilities. Last year, Massachusetts raised nearly \$400,000 for the Special Olympics and last year in the United States, over 42 million dollars were raised. Deputy Chief Considine is proud to showcase and bring these events to Harwich.

Brooks Free Library Director Ginny Hewitt was present and reminded everyone that the CLAMS consortium will be upgraded this weekend and will go live on February 27th. Ms. Hewitt reviewed the changes that will take place and said that people can call the library at 508-430-7562, option 1, for assistance. Ms. Hewitt announced some upcoming events that will be happening at the library during school vacation week.

Community Center Director Carolyn Carey was present and announced that the find the duck event will be tomorrow starting at 8:00 a.m. There are 10 ducks to be found with 20 decoy ducks. Ms. Carey invited everyone to visit the Community Center to view and vote for the ducks on display. There were over 50 ducks submitted for judging. On Friday, the winners of the contest will be awarded. This coming Thursday will be the indoor yard sale from 10:00 a.m. – 4:00 p.m. at the Community Center.

A. Committee Vacancies

Ms. Anderson read the existing committee vacancy list.

B. Azalea Drive Bridge replacement

Mr. Powers announced that next week MassDOT will begin working in the Pleasant Lake village part of town on the Azalea Drive bridge replacement. The estimated duration of work is February 27, 2023 through October 4, 2024. Construction will be Monday through Friday from 7:00 a.m. through 3:30 p.m. The Town Administrator's office has contact information for MassDOT if anyone needs further information.

CONSENT AGENDA

- A. Approve Board of Selectmen Meeting Minutes:
1. January 30, 2023
 2. February 6, 2023

Mr. Howell moved to approve the consent agenda as listed above, 2nd by Mr. Ballantine and approved 4-0-0.

NEW BUSINESS

- A. Approve the following committee appointment recommendations from the Board of Selectmen Interview Committee:
1. Alexa Paige – Harwich Accessibility Rights Committee (HARC) – Full Member - Term to expire 6/30/2025
 2. Allan Peterson – Planning Board – Alternate Member – Term to expire 6/30/2023
 3. Jean Bulger – Treasure Chest Committee – Alternate Member – Term to expire 6/30/2024
 4. Glenn Miemiec – Harwich Representative to Cape and Vineyard Electric Cooperative (CVEC) – Term to expire 6/30/2025

Mr. Howell asked if the CVEC expiration number is correct. Mr. Ballantine and Ms. Kavanagh agreed that the number is correct, but would double check.

Ms. Kavanagh moved to approve the committee appointment recommendations from the Board of Selectmen Interview Committee as listed above, 2nd by Mr. Ballantine and approved 4-0-0.

B. Discussion on potential projects through the Cape Cod Water Resources Restoration Project (CCWRRP)

Joining the discussion tonight are representatives from the Cape Cod Water Resources Restoration Project. Mr. Powers turned the conversation over to Mark Forest who runs the restoration project program.

Mr. Forest provided the Board with a fact sheet regarding the overall program as well as their press release from their last award of funding. Mr. Forest stated that he started his career in Harwich working in the basement of Town Hall and his job was to work to secure grant money for the town, and he has not stopped since. Mr. Forest introduced Martha Craig and Stephen Spear who together have partnered to create this initiative to enhance and improve our coastal resources. They have partnered back almost 30 years working on this comprehensive plan that was approved by congress in 2006. Much of their work is focused on degraded salt marshes, fishery habitats and shellfish habitats. The types of projects that can be funded are culverts, fish ladders, dry wells and sand filters. When looking at these projects, they can be expensive, but are used as remedies to destroy a degraded area.

Ms. Craig is the Cape Cod Conservation District Program Manager. Mr. Spear is the Natural Resources Conservation Service Conservation Planner and Mr. Forest is the Chair of the Cape Cod Conservation District.

Ms. Craig reported that they have worked with all 15 cape towns to come up with different project types. There were a number of projects that were implemented in 2010, which included Red River beach and multiple storm water remediation projects that had strong success. She went on to briefly review projects that are still on the list which include upper cold brook fish passage, route 124/bike path, Depot Street culvert/bike path, Punkhorn Road, West Reservoir and Lothrop Road salt marsh. NRCS is willing to fund 75% of the estimated construction in some future time and the town would be responsible for the 25% non-federal finding match.

Ms. Craig went on to say that they have worked with staff to find out what the different town priorities are and then would make a request to NRCS for funding. Town staff have indicated that the upper cold brook passage and Route 124 bike path are priority projects. What was discussed was technical assistance which would be for the design and studies of these structures. It would be design money and potentially down the road for construction management. NRCS would cover 100% of the funding for technical assistance with a 0% match requirement from the town to help move forward. When it comes time for construction, the town would have had an opportunity to work on their construction funding match.

Mr. Spear emphasized that projects discussed were done so in consultation with town staff and that they believe in a locally led process. The Town of Harwich will be a partner in these projects and will be involved in all of the design steps and would be responsible for permitting. The consultants can assist with the ingredients of permitting, the design work and some of the ecological assessments. Ms. Craig added that the art of their job at the district is to help the town with the agreements.

Mr. Ballantine asked what the timeline would be. Mr. Forest responded that for technical assistance, that it would be helpful to have direction from the Board to earmark funds for Harwich. After further discussion, it would be recommended that the Board vote to authorize the Town Administrator to enter into an agreement with NRCS for assistance under this program. NRCS would offer to help draft the resolution. Mr. Forest added that the ask would need to be submitted in March and that the paperwork would be signed over the summer. After this, there would be 5 years to do the technical design work and then once construction funds are received, you would have 5 years to implement the project.

Mr. Ballantine asked if the town would be obligated to carry through with the project if we find that we cannot make it happen. Mr. Spear responded that the team envisions that there may be circumstances where the town might not be able to move forward with a project, but is hopeful that Harwich would be serious about moving forward. Ms. Craig stated that the district is there to help the town with these agreements and they are looking forward to what might be needed in the future to start thinking about what the non-federal match might be, which would include state grants.

Mr. Forest said that usually projects that make the priority list will also make the priority list of other state agencies as well. He feels that Harwich's projects would rank reasonably high with the other non-federal agencies.

Natural Resources Director Heinz Proft was present and provided clarification on the fish passage work request.

Mr. Howell commented that this is a great thing and would be wonderful for Harwich but asked for clarification on the technical assistance funding. Ms. Craig responded that there would be no obligation for the town to move forward past the technical assistance portion.

Ms. Kavanagh asked how long it would take if the Board were to vote this forward. Ms. Craig responded that they would compile the requests and send them in the next couple of weeks for review. NRCS would look to work with the town to enter into an agreement sometime in August. After the agreement is signed, then the funds would be available on a reimbursement basis. Depending on the consultant, this could take a year. Mr. Spear added that the design work could take 1-2 years and then permitting which could take at least another year followed by finishing the design which could be 6 months to a year. He noted that NRCS already has a study underway for upper cold brook. Harwich would probably be looking at 3 years at least before looking at construction.

Ms. Kavanagh asked if the town would have to go out for a request for proposal. Mr. Powers responded that where it is technical assistance and government agencies, this would be more along the lines of an intermunicipal agreement. A RFP would be for construction work going forward. Since the technical assistance is a reimbursement, the town could seek use of the Community Preservation funds which could prime the pump for construction permits in the future.

Mr. Powers stated that he has talked with the involved town staff and that a resolution will be brought back before the Board for a discussion and vote next week.

C. Discussion on possible amendments to the Town Administrator's Fiscal Year 2024 Operating Budget

Mr. Powers provided the Board with a document that reflects information based on last week's Board recommendations. Mr. Powers drew the Board attention to lines 24 through 26 which are the Administration budget. What has been added to this budget is the creation of the Human Resources Administrator. The salary line includes an amount of \$95,000.

Mr. Howell stated that he has given a lot of thought to this position and would like to know how it is viewed organizationally. Mr. Howell feels that the position should be a direct report to the Selectmen. Ms. Anderson agreed and asked if it matters where the line item sits in the budget. Mr. Howell responded that the location does matter because it depends on who has the oversight.

Mr. Ballantine pointed out that this will be the 3rd position that will be added in the last year. He would like to see everyone understand what is being presented if we are going to move forward.

Ms. Kavanagh stated that she is fine with however this moves forward and would like everyone to understand that we are seeing a taxation on our departments. She would be ok with this position being a separate article as well as having it in the budget.

If given a preference, Mr. Ballantine would like to look at protecting the existing staff before we add another staff member. Ms. Kavanagh stated that she agrees on that platform, but added that we have lost a lot of personnel over time and that does cost the town money. She added that it is imperative that staff have a neutral place to go for human resource matters.

Ms. Anderson feels that this position should have its own article in the warrant.

Mr. Powers responded to all that he did not understand this to be a senior executive level position, so asked that the Board reconsider the salary level. If the position were to report to the Selectmen, the discussed salary of \$85,000-\$110,000 would be on the low end. If the Board were to consider it being a senior executive position, the salary would trend closer to \$130,000.

Mr. Powers reviewed the request from the Conservation Department for the addition of a position for counter and administrative support. The amount of this request is \$23,784.

Mr. Howell stated that this is one position that he can rationalize and that it is not a budget buster. We currently do not have the ability to follow up and hold people accountable because of staffing levels. Ms. Kavanagh added that the sheer volume of what the Conservation Department is dealing with is large and that she fully supports the request.

Ms. Kavanagh took a moment to mention that the early childhood education item would be another warrant article.

Finance Director Ann Marie Ellis was present and walked the Board through the changes that got us to the latest sources and uses table. The document provided is the response to correct receipt applications to the FY24 forecast budget in keeping with proper accounting procedures. Ms. Ellis briefly reviewed the changes made to the Harbormaster budget as well as the Department of Public Works. We want to make sure that no charges are getting placed against a revenue and that no revenue is being placed against an expenditure.

The town has received the actual FY24 health insurance rates and the actual amount is \$5,342,192 which resulted in a reduction of \$250,077 from the previous forecast. The last change to the sources and uses document is the revision of the Town Administrator's forecast for the town operating budget of \$29,951,951, leaving \$1,309,154 remaining in net sources and uses. Ms. Ellis provided the Board with a new sources and uses document including backup to show the change to revenues and the Town Administrator's expenses.

Ms. Anderson noted that her biggest concern is that this is the 4th revision of this document in a couple of weeks. She asked if we are confident that this is the final version. Ms. Ellis responded that she is as confident as she can be.

Mr. Howell asked where the water/wastewater budget is in these documents. Ms. Ellis responded that they are a separate enterprise fund. Mr. Howell responded that they still have to get appropriated funds from Town Meeting and that we need to produce a budget no matter what the source of funding is. Mr. Powers responded that those have traditionally been under separate articles with separate spreadsheets. Tonight is to focus on the operating budget which is the general fund. Further detail will be provided at the March 4 budget discussion.

Mr. Howell said that there is no way of knowing how reasonable a general fund transfer is without knowing what the receipts are. Mr. Powers responded that enterprise fund receipts do not impact upon a general fund operating budget.

Mr. Ballantine stated that in a broad way, we keep increasing the number for local receipts, which is a little scary to him. He would like to make sure that it is clearly defined on how funds will be used.

Mr. Howell wants to be able to recognize reasonable receipts and that we don't end up with 7, 8, or 9 million dollars of free cash.

Ms. Kavanagh asked if the cherry sheets represent hard numbers. Mr. Powers responded that we would not have hard numbers until March 1 when we hear the Governor's budget. We have been hearing from the state house that they are not looking to do any harm and that we are not expecting a change either way on the numbers.

Mr. Powers drew the Boards attention to and briefly reviewed the semi fixed cost numbers as provided.

Mr. Powers stated that based on the discussion about the Human Resources Administrator being a senior executive position, the number in the budget would have an increase of about \$35,000. The overall budget number on the sheet that would be transmitted to the Finance Committee would be \$30,089,948 which represents a 3.35% increase over the original budget a year ago and a dollar increase year over year is \$973,953.

Mr. Ballantine asked for clarification on the previous Board discussion regarding the number of firefighters proposed to be added versus the numbers provided. Mr. Powers responded that he spoke with Fire Chief David LeBlanc and that the numbers did not need to be modified, but simply the explanation. Chief LeBlanc had said that even though it costs more to bring in a new position, there will be a significant cost savings in the overtime line. Mr. Howell would like to be sure that it is disclosed what we are bringing in as the obligation.

D. Per Town of Harwich Charter Chapter 9, Section 3, Clause 9-3-2 vote to recommend the Fiscal Year 2024 Budget to the Finance Committee

Mr. Howell read section 9-2-6 of the charter which explains that we need to have a complete financial plan for all town departments, outside of revolving funds. Mr. Ballantine commented that Mr. Howell brings up a good point that that his issue is more relating to timing, recognizing that the Board has not had their March 4 meeting.

Mr. Ballantine moved to recommend the Fiscal Year 2024 budget to the Finance Committee as a working document, 2nd by Ms. Kavanagh and approved 3-0-1 (Howell abstained).

Ms. Anderson asked what is the commitment date is to get the budget to the Finance Committee. Mr. Powers responded that it is on or before the 4th Tuesday of February.

E. Affirm the Town Administrator's appointment of Betty Clark Macleay as the Treasurer/Collector

Mr. Powers presented for the Board's affirmation the appointment of Betty Clark Macleay. Mr. Powers reviewed the memo dated February 17, 2023 and stated that if affirmed, Ms. Macleay would begin employment on March 8, 2023.

Mr. Howell noted that he did review the entire file of all applications and that Ms. Macleay is clearly head and shoulders over everyone who applied.

Mr. Howell moved to affirm the Town Administrator's appointment of Betty Clark Macleay as the Treasurer/Collector, 2nd by Ms. Kavanagh and approved 4-0-0.

- F. Vote to accept the proclamation submitted by Josh Winston and announce the month of June will be named Pride Month

Mr. Howell state that this is about pride for Harwich, not just one specific group. He commended Mr. Winston for the idea and the well written proclamation. Harwich has a long history of being inclusive. Ms. Anderson agreed.

Mr. Ballantine moved to accept the proclamation submitted by Josh Winston and announce the month of June will be named Pride Month, 2nd by Mr. Howell and approved 4-0-0.

- G. Approve the One day Wines and Malt Special Permit for Cranberry Festival Music Concert at 204 Sisson Road on March 18, 2023 6:00 p.m. to 10:00 p.m.

Mr. Howell moved to approve the one day Wines and Malt Special Permit for Cranberry Festival Music Concert at 204 Sisson Road on March 18, 2023 6:00 p.m. to 10:00 p.m., 2nd by Mr. Ballantine and approved 4-0-0.

- H. Approve a 2023 Annual Common Victuallers license renewal for Capeside Kitchen Inc. d/b/a Capeside Kitchen – 537 Route 28

Mr. Howell moved to approve a 2023 Annual Common Victuallers license renewal for Capeside Kitchen Inc. d/b/a Capeside Kitchen – 537 Route 28, 2nd by Ms. Kavanagh and approved 4-0-0.

- I. Vote to waive the Right of First Refusal for the sale of 9 Gomes Way

Mr. Powers reviewed the request.

Mr. Howell moved that the Board of Selectmen vote to waive its right to purchase the property owned by Karen Tromp, located at 9 Gomes Road, Harwich, said right created under an Affordable Housing Restriction recorded with the Barnstable County Registry of Deeds in Book 24172, Page 296 and further move that the Board vote to waive its right to locate an eligible purchases under said Affordable Housing Restriction, 2nd by Ms. Kavanagh and approved 4-0-0.

- J. Approve the temporary closure of WFS Restaurant Group, Inc. d/b/a Red River Barbeque – 787 Route 28

Mr. Ballantine moved to approve the temporary closure of WFS Restaurant Group, Inc. d/b/a Red River Barbeque – 787 Route 28, 2nd by Ms. Kavanagh and approved 4-0-0.

OLD BUSINESS

A. Update on Opioid funding and vote to accepted the present plan

Health Director Katie O'Neill was present remotely. As stated in the memo provided, the opioid funding recommendations have been found to match the state guidelines for expenditures and reporting.

Mr. Howell gave one final pitch that the team reconsider the beginning age for some of their educational efforts. Health Director O'Neill responded that they did follow up with the school and that the program that they are asking for would begin in 6th grade.

Mr. Howell moved to accept the presented plan regarding the use of opioid funds, 2nd by Mr. Ballantine and approved 4-0-0.

B. Vote to approve the Request for Proposals document for the Fiscal Year 2024
Human Services Grants

Mr. Howell and Ms. Anderson asked if they would need to recuse themselves. Mr. Powers responded that it would not be an issue and that due to the rule of necessity as long as they both disclose that they have a financial interest, they could vote on the matter.

Mr. Howell and Ms. Anderson both disclosed that they have a financial interest in these grants and that they are comfortable in voting because they are not voting the funding, but voting the pool of money.

Ms. Kavanagh moved to approve the request for proposals document for the Fiscal Year 2024 Human Services Grants, 2nd by Mr. Ballantine and approved 4-0-0.

C. Discussion on Zoning Amendment Warrant Articles for 2023 Annual Town
Meeting

Mr. Powers noted that there has been some confusion and that staff was not sure if there was going to be a discussion on what the Director of Planning and Community Development is working on. The planner is scheduled to come before the Board of Selectmen next week.

Ms. Kavanagh said that she went to the Planning Board meeting and that one of the things being discussed was changing our bylaw to make accessory dwelling units easier. Ms. Kavanagh had proposed that we simplify the ADU bylaw language to be such that it would be brought down to 10,000 square feet in any district, remembering the fact that we have properties in the campground that have less total land than that. Applicants would be able to apply and would need to meet other various parameters including parking and setbacks. At the meeting, Ms. Kavanagh stated that she was not speaking on behalf of the Board but that she knows everyone has an interest in addressing the situation. Ms. Kavanagh also mentioned that we may want to look at adding a definition of work force housing into our bylaw.

Mr. Howell added comments about the number of bathrooms on a property. Ms. Kavanagh clarified that it is the number of bedrooms that impacts the septic system design flow. It would not be a look to add number of bedrooms, but to reorganize where the bedrooms are on the property.

Mr. Ballantine feels that if we are serious about this, we need to make it as simple as we can.

CONTRACTS

- A. Accept and authorize the Chair to sign the Massachusetts Cultural Council Grant in the amount of \$7,800

Ms. Kavanagh moved to accept and authorize the Chair to sign the Massachusetts Cultural Council Grant in the amount of \$7,800, 2nd by Mr. Howell and approved 4-0-0.

- B. Approve the Massachusetts Cultural Council District Improvement grant for Harwich Port in the amount of \$15,000

Ms. Kavanagh moved to approve the Massachusetts Cultural Council District Improvement grant for Harwich Port in the amount of \$15,000, 2nd by Mr. Howell and approved 4-0-0.

- C. Approve the Massachusetts Cultural Council District Improvement grant for Harwich Center in the amount of \$15,000

Ms. Kavanagh moved to approve the Massachusetts Cultural Council District Improvement grant for Harwich Center in the amount of \$15,000, 2nd by Mr. Howell and approved 4-0-0.

- D. Approve Campbell Construction Group, LLC Change Order 1 for the Brooks Academy Museum basement renovation in the amount of \$8,798

Ms. Kavanagh moved to approve the Campbell Construction Group, LLC Change Order 1 for the Brooks Academy Museum basement renovation in the amount of \$8,798, 2nd by Mr. Howell and approved 4-0-0.

TOWN ADMINISTRATOR'S REPORT

Mr. Powers announced the hiring of Stephanie Johnson as the Executive Assistant in the Health Department as well as the hiring of Andrew Walsh as a Custodian under the Department of Public Works.

SELECTMEN'S REPORT

No report was given.

CORRESPONDENCE

No correspondence was discussed.

ADJOURNMENT

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

Respectfully submitted,
Jennifer Clarke
Recording Secretary