

APPROVED
RELEASED

MINUTES
SELECT BOARD MEETING
DONN B. GRIFFIN ROOM, TOWN HALL 2024 MAR 22 A 9:31
732 MAIN STREET, HARWICH, MA
EXECUTIVE SESSION 5:30PM
REGULAR MEETING 6:00PM
MONDAY, MARCH 4, 2024

RECEIVED
TOWN CLERK
HARWICH, MA

MEMBERS PARTICIPATING: Julie Kavanagh, Chair, Michael MacAskill, Vice Chair, Jeff Handler, Clerk and Don Howell

ALSO PARTICIPATING: Joseph Powers, Town Administrator

I. CALL TO ORDER

Ms. Kavanagh called the meeting of the Select Board back to order at 6:00PM noting that they had been in Executive Session.

II. PLEDGE OF ALLEGIANCE

Ms. Kavanagh invited all attendees to join in the Pledge of Allegiance.

Ms. Kavanagh read the Open Meeting Law Notice.

III. EXECUTIVE SESSION

A. Pursuant to MGL c. 30A, §21(a)(6) to consider the purchase, exchange, lease or value of real property if the Chair declares that an open meeting may have a detrimental effect on the negotiating position of the Town; 62 Route 28, West Harwich

B. Pursuant to MGL c. 30A §21(a)(7) to comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements, the Open Meeting Law, MGL c. 30A §§ 22(f), (g) to review, approve and or discuss the possible release of executive session meeting minutes dated February 1, 2024; February 5, 2024; February 20, 2024; February 26, 2024

Ms. Kavanagh reported that while in Executive Session, the Select Board did not take any specific action on Item A. On Item B. they moved to accept those Minutes.

IV. PUBLIC COMMENTS/ANNOUNCEMENTS

Cindy Williams, Executive Director of the Harwich Chamber of Commerce was present. She noted that the Chamber will be celebrating its 65th anniversary on Wednesday, March 13th and she gave the details of the event. Also noted was that the Toast is April 20th at Wequussett and

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she shared those details. Ms. Williams described a new marketing initiative called Harwich is a Wonderland. She gave details of the event scheduled from May 10th-12th. All information is on the website.

Julie Witas, Director of the Council on Aging was present and invited the Select Board, the Town Administrator and the community to two trainings. She explained the details of the Dementia Friends training, where and when and also what they hope to accomplish now and in the future. She also announced that the group, Friends of the Council on Aging has agreed to fund a comprehensive needs assessment for the Harwich older adult population. She noted their plans to work with Mass Boston Institute of Gerontology for the needs assessment, starting in September of 2024. Ms. Witas explained what is involved in the doing the needs assessment.

Kara Mcwhinney, director of Cultural Affairs participated remotely and gave a March update noting that they launched their first digital newsletter. She explained programming and classes that they offer weekly. Ms. Mcwhinney also noted events happening in March. All information can be found in the newsletter. Ms. Mcwhinney gave Cultural District updates, noting projects and programing taking place in March, April and May. All details will be announced in the April Newsletter. She also noted Monday night concerts at Brooks Park through July and August.

Mr. Powers noted that the Community Forum on the Phase 3 Construction is this Thursday, March 7th at 7:00 in the Community Center and not is open to the entire community.

Mr. Handler noted that Office Hours are scheduled for Wednesday, March 13th from 5:30PM-7:00PM at the Community Center in Room 3.

Ms. Kavanagh announced that the Select Board will be meeting on Tuesday, March 19th and not Monday that week.

V. CONSENT AGENDA

A. Approve the Select Board Meeting Minutes for February 26, 2024

Ms. Kavanagh noted that this will be held until next week.

VI. PUBLIC HEARING

A. Public Hearing - Approve the transfer of the M.G.L. Chapter 138, Section 12, Annual All Alcohol liquor license held by Morningstar Restaurant, Inc. d/b/a Villa Roma, Manager Douglass Morrissey, 278 Route 28, to Milano Hospitality Group, Inc. d/b/a Milano's Italian Kitchen, Manager Francis Wiacek, Jr.

Mr. Handler read the Public Hearing Notice to Approve the transfer of the M.G.L. 138, Section 12, Annual All Alcohol liquor license now held by Morningstar Restaurant, Inc. d/b/a Villa Roma at 278 Route 28 Harwich, MA 02646, Douglas Morrissey Manager to Milano Hospitality Group, LLC d/b/a Milano's Italian Kitchen 278 Route 28, Harwich, MA, Francis Wiacek, Jr. Manager

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on the following described premises located at 278 Route 28, Harwich, MA. Building consists of three rooms for food and beverage service internally as well as an outdoor patio for seasonal service, patio seating in lieu of indoor seating, total capacity not to exceed 51 seats. Liquor will be stored in a locked office on the second floor. The Select Board will hold a Public Hearing on this application, Monday, March 4, 2024 no earlier than 6:00PM in the Griffin Room at Town Hall, Harwich Town Hall at 732 Main Street, Harwich, MA 02645. Remote participation is also available. Please see the posted Agenda for dial in information.

Mr. Howell moved to open the Public Hearing , seconded by Mr. MacAskill.

Manager Francis (Frank) Wiacek, Jr. was present.

Board members did not have questions.

Mr. Howell noted that the Police Department's report had no objections to the transfer of the license.

Ms. Kavanagh asked for public comments.

Cindy Williams welcomed them.

Mr. Howell moved to close the Public Hearing, seconded by Mr. MacAskill.

Vote 4:0 in favor. Motion carried.

Mr. MacAskill moved to approve the transfer of the M.G.L. Chapter 138, Section 12, Annual All Alcohol liquor license held by Morningstar Restaurant, Inc. d/b/a Villa Roma, Manager Douglass Morrissey, 278 Route 28, to Milano Hospitality Group, Inc. d/b/a Milano's Italian Kitchen, Manager Francis Wiacek, Jr., seconded by Mr. Howell.

Vote 4:0 in favor. Motion carried.

Mr. MacAskill thanked Mr. Morrissey for his many years in Harwich.

B. Public Hearing – Being Continued to March 11, 2024, to approve a Stormwater Permit application for a seven (7) lot subdivision plan "Wildlife Circle" located off of Littlefield Pond Road, Assessors Map 65, Parcel R2-2/ - Continued from February 12, 2024

Ms. Kavanagh noted that B. Public Haring is being continued to March 11. 2024.

VII. JOINT MEETING WITH THE SELECT BOARD & BY-LAW CHARTER REVIEW COMMITTEE

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A. Discussion on recommendations made by By-law/Charter Review Committee for and/or by law articles to be included in the warrant for May 2024 Annual Town Meeting

Linda Cebula, Chair called the meeting of the By-Law/Charter Review Committee to order at 6:23PM. Committee members present were Anita Doucette and Sandy Hall.

Ms. Kavanagh noted that the Board has the Review Committee's report.

Mr. Handler thanked the Committee members for their work. He distributed to all Board and Committee members, copies of a document intended to make it easier for all to follow along.

Ms. Kavanagh noted the difference between the current and the proposed wording in 353..

Ms. Cebula explained the reasons for the differences in the wording.

Mr. Handler moved that the following Charter changes be included in the May 2024 Annual Town Meeting Warrant: 2-3-1-The Annual Election of Town Officers shall be called under Clause 811 of Chapter 8. The Annual Town Meeting shall meet regularly in the first week of May to consider and adopt Annual Operating and Capital Budgets and to act on financial and other matters. The meeting shall be continued on other days until all Articles in the Warrant have been acted upon as well as 3-5-3, The Select Board Chair shall have the authority to designate from time to time one or more of its members to sign Warrant for the payment of Town Funds in the absence of the Town Administrator. As referenced in Clause 4-6-1 the Town Treasurer shall be notified of this designation 4-3-2-I Change would be in the second line, Water Department to Water/Wastewater Department. 4-4-3 The removal of - The Town Administrator shall appoint the Harbormaster and any Assistant Harbormasters. Reason, the Town Administrator has the authority to do this under 4-4-1 and 4-4-2. Seconded by Mr Howell.

Ms. Cebula commented on 443 that they should remove that line and gave her reasons.

Vote 4:0 in favor. Motion carried.

Mr. Handler moved that the following By-Law change be included in the May 2024 Annual Town Meeting Warrant: 271-16 Votes of the Select Board and Finance Committee establishing recommendations regarding Town meeting Articles shall be printed in the Warrant with each individuals recorded vote. Seconded by Mr. Howell.

Ms. Cebula noted that at the 2019 Annual Town Meeting, Article 55 passed adding that the Select Board's votes included individual's names. This is to clean up the Charter By-Law language which had not yet been done.

Vote 4:0 in favor. Motion carried.

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Mr. Handler moved that the following Charter changes be included in the May 2024 Annual Town Meeting Warrant: Chapter 3-7-1 Include the language that the Human Resource position will report to both the Select Board and the Town Administrator. In Chapter 3-6-1 Add to the list of appointments made by the Select Board, the position of Human Resources. Seconded by Mr. Howell.

Discussion followed regarding possibly waiting until the Fall Town Meeting to make this change.

Vote 4:0 in favor. Motion carried.

Mr. Handler moved that the following Charter changes be included in the May 2024 Annual Town Meeting Warrant: Chapter 2-2-2 Warrants will be mailed to all households. Seconded by Mr. Howell.

Discussion followed with Board members giving their opinions.

Vote 0:4 against.

Mr. Handler moved that the following Charter change be included in the May 2024 Annual Town Meeting Warrant: Chapter 2-8-1 That all new additions to staff and changes from part-time to full-time be included in the Town Meeting Warrant as separate Articles. Seconded by Mr. Howell.

Discussion followed with Board members giving their opinions.

Vote 0:4 against.

Mr. Handler moved that the following General By-Law change be included in the May 2024 Annual Town Meeting Warrant: Chapter 7-2 Specify the reports/information to be included in the Warrant and reported to Town Meeting - Proposed Budget, Anticipated Receipts, Capital Plan, Sources and Uses, Uses of Funds, Statement of Activity on all Revolving Funds including balances for prior fiscal year and at the close of the previous calendar year. Seconded by Mr. Howell.

Mr. MacAskill asked what information is not currently included in the Warrant.

Mr. Powers replied that the Capital Plan is in the Warrant but he does to believe that the others are included in the Warrant.

Ms. Cebula noted that the Budget is in but receipts are not. There is receipt information in various places but they are looking for a one page document that says what the Budget total is

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and also lists all the information of where all the receipts are coming from. She commented that this is effectively the Sources and Uses Report.

Discussion followed with Board members giving their opinions and Ms. Cebula explaining why they are in favor of the wording.

Mr. MacAskill stated for the record that nowhere did he say that they should hide this information from the public. Nowhere did he say that it shouldn't be readily available to everybody that wants to see it. He stressed that there is no lack of transparency.

Discussion continued on what information is in the Warrant and what could/should be added in a format that is easily understood.

Mr. MacAskill commented that having a one page document plus having another one page document with receipting information is something that they should bring forward as a Board, to make a request and get as much of that information into the Warrant.

Discussion continued on the Revolving Funds and previous conversations on the same subject. It was emphasized that the information is being requested because it will help the public to better understand the Revolving Fund.

Ms. Kavanagh suggested looking into what other towns are providing as references and comparisons.

Vote 0:4 against

Mr. Handler moved that the following General By-Law change be included in the May 2024 Annual Town Meeting Warrant: Chapter 271-3 During Legislative Session of Town Meeting, the floor shall be occupied solely by registered voters, it is the duty of the Moderator to clear the floor of all non-voters. Non-voters shall be allowed to address the meeting at the discretion of the Moderator provided that the Moderator shall allow Non-resident Department Heads to speak on any Article, the subject matter of which might affect that Department or in response to a question from the floor. Seconded by Mr. Howell.

Discussion followed regarding the wording in the proposed changes with Board and Committee members giving their opinions. The decision was made to change "The Moderator may allow" to "the Moderator shall allow".

Mr. Howell withdrew his second, Mr. Handler withdrew his motion.

Mr. Handler moved that the following General By-Law change be included in the May 2024 Annual Town Meeting Warrant: Chapter 271-3 During Legislative Session of Town Meeting, the floor shall be occupied solely by registered voter and it shall be the duty of the Moderator to

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clear the floor of all non-voters. Non-voters shall not address the meeting without majority consent thereof, provided however that the Moderator shall allow a Non-resident Department Head to speak on any Article, the subject matter of which might affect that Department or in response to a question from the floor. The Select Board will send this motion to the Moderator, if carried, for review and approval. Seconded by Mr. Howell.

Vote 4:0 in favor. Motion carried.

Ms. Cebula noted the there are places in the Charter that still refer to the Select Board as Selectmen. She requested that the 5 places she noted be corrected to Select Board and also noted that the By-Laws have not been changed to reflect "Select Board". The Article that had the Charter change did not include a By-Law change.

Mr. Powers noted that those changes will be discussed under New Business, Item E.

Mr. Handler asked Mr. Powers about Citizens Petitions that are expected to be going to the By-Law/Charter Committee.

Mr. Powers responded that there is at least one that makes reference to governance. He is working with Counsel on Articles to be placed, to ensure that Petitioners are comfortable with the language. He will send the Petitions at the Board's request as they are now, to the Committee with the understanding that the wording could change.

Ms. Doucette moved to adjourn the meeting of the By-Law/Charter Review Committee, seconded by Ms. Hall.

Meeting adjourned at 7:29PM.

VIII. NEW BUSINESS

A. Approve the appointment of Andrea Akridge as the Interim Treasurer/Collector per M.G.L. Chapter 41, Section 40

Mr. Handler moved to approve the appointment of Andrea Akridge as a Temporary Treasurer/Collector per M.G.L. Chapter 41, Section 40, effective immediately. Seconded by Mr. Howell.

Vote 4:0 in favor. Motion carried.

B. Vote to accept and place the following Articles in the 2024 Annual Town Meeting Warrant:

- *Town Officers & Committees
- * Reports of Officers & Committees
- * Elected Officials Salaries
- * Lease Purchase Agreements

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- * Defray Library Expenses
- * Promote the Town of Harwich
- * Herring Fisheries
- * Water Infrastructure Investment Fund (WIIF)

Mr. Handler moved to accept and place the following Articles in the 2024 Annual Town Meeting Warrant:

- *Town Officers & Committees
- * Reports of Officers & Committees
- * Elected Officials Salaries
- * Lease Purchase Agreements
- * Defray Library Expenses
- * Promote the Town of Harwich
- * Herring Fisheries

Seconded by Mr. MacAskill.

Vote 4:0 in favor. Motion carried.

Mr. Handler moved to accept and place the following Article in the 2024 Annual Town Meeting Warrant: Water Infrastructure Investment Fund (WIIF) Seconded by Mr. MacAskill for discussion.

Mr. Howell commented on this Article, preferring that it not be included, they have not yet identified its Funding Source.

Mr. Powers referred to a memo in the packet He had requested that the Board not have a discussion on the WIIF.

Mr. MacAskill removed his second.

Mr. Handler removed his motion.

Mr. Powers explained next steps for this Article noting the he would like to get it back to the Board as soon as possible.

C. Update on the 2024 Annual Town Meeting Articles for Queen Anne Road parcels

Mr. Powers gave the update noting that there are several steps taking place in anticipation of the Articles. He also noted that staff is reaching out to various Boards and Committees regarding the properties. He anticipates that the Board will be declaring them surplus at the March 25th meeting but they will have the Articles next week.

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D. Discussion on Community Preservation Committee Articles for 2024 Annual Town Meeting Articles

Mr. Powers noted that he has been working with the Committee Preservation Committee (CPC). They will be making language corrections and this will be before the Board next week.

E. Discussion on need for Charter Article

Mr. Powers referred to the Memorandum in the packet that includes the specifics. He mentioned the 5 specific sections in the Charter, noting that they have to be corrected by Town Meeting action by voters, presumably in May of 2025.

By consensus, the Board agreed that Mr. Powers will direct the creation of those corrections.

F. Approve a revised Use of Facility Form as recommended by the Director of Recreation

Mr. Powers noted the Use of Facility Form which has been updated to reflect non-profit use only. The second document (the back page of the Form) under Use of Ball Fields and Parks, #2 has language regarding for-profit that Mr. Powers recommended be removed. Also in the packet are specific Existing Select Board Policies which Mr. Powers included, noting that they have wording regarding "Profit".

Ms. Kavanagh noted that the Revised General Fee Waiver Policy states that non-profits don't have to pay a user fee for a license or permit. She noted the two revisions in the Policy. Ms. Kavanagh stated that it is relevant to the revised form submitted by Mr. Beebe. He omitted language regarding waivers for non-profits as it is covered in the Revised Policy.

Carolyn Carey, Community Center Director was present and noted that the Community Center does charge every group and organization including non-profit groups and organizations utilizing the building, with the exception of Town groups and organizations.

Discussion continued regarding the impacts of waiving the fees.

Mr. Howell noted what the Cultural Center does to waive fees. He also noted that the Policy does not mention a school department. In addition, he commented that it was never the intention for anyone to view this as ownership and gave the history.

Ms. Kavanagh noted the three documents that have to be revisited and revised.

Mr. MacAskill commented on the need for a larger discussion, noting the cost of the waivers to the town. He noted that the system that is presently in place regarding fee waivers, works.

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Mr. Powers noted that everything the Board has talked about regarding fees, ties back to Departments and Programs. He explained the procedure for Profits which would involve a license agreement.

After discussion, the Board agreed that revisions have to be made and the policy clarified.

Mr. Powers recommended that the Board adopt the Use of Facility Form and related rules as presented.

Mr. Handler moved to accept the Town of Harwich Recreation Department's Use of Facility Form as presented in the packet. Seconded by Mr. MacAskill.

Vote 4:0 in favor. Motion carried.

G. Review draft fee waiver policy for the Recreation Department and use of property by for-profit agencies

This item previously discussed.

H. Approve a 2024 Annual Class IV Auto Repair license renewal for A & G Accident Repair, Inc. d/b/a Cranberry Collision, 161 Queen Anne Road

Mr. Handler moved to approve a 2024 Annual Class IV Auto Repair license renewal for A & G Accident Repair, Inc. d/b/a Cranberry Collision, 161 Queen Anne Road. Seconded by Mr. MacAskill.

Vote 4:0 in favor. Motion carried.

I. Approve a Special Permit Application for one day entertainment and one day wines & malt permit – Sativa, 517 Route 28, Event to be held at 517 Route 28 outside in parking lot, May 25, 2024, 11:00 a.m. to 5:00 p.m., Live/recorded music with amplification

Mr. Handler moved to approve a Special Permit Application for one day entertainment and one day wines & malt permit – Sativa, 517 Route 28, Event to be held at 517 Route 28 outside in parking lot, May 25, 2024, 11:00 a.m. to 5:00 p.m., Live/recorded music with amplification. Seconded by Mr. Howell.

Vote 4:0 in favor. Motion carried.

J. Approve the Harwich Affordable Housing Trust- Community Preservation Act Grant Agreement

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Mr. Handler moved to approve the Harwich Affordable Housing Trust- Community Preservation Act Grant Agreement. Seconded by Mr MacAskill.

Mr. MacAskill commented that this should not be for the Select Board to sign.

Mr. Powers explained that this is a Community Preservation Grant to the Affordable Housing Trust. CPC insists that the Town (Select Board) signs the Grant and then the Trust signs the Grant.

Mr. Howell commented that it is not supported by law.

Ms. Kavanagh commented that this had been discussed at a Harwich Affordable Housing Trust Meeting. Dave Nickerson, CPC Chair had indicated that this needed to be signed in order to transfer the money.

Mr. Powers commented that the document before the Board, with signature spaces for the Select Board has already been signed by the Chair of the Harwich Affordable Housing Trust (HAHT) and that he signed it as Administrator. CPC is claiming that for the Trust to get their money, the Town and the Trust have to sign the document. He read from the opening paragraph. He recommended signatures but commented that he disagrees for a different reason, which he explained. He emphasized the the Board is signing for the funds to be released to the HAHT.

Discussion followed regarding the agreement.

Mr. Howell noted that the HAHT money is never in possession of the Board. Only the HAHT trustees can disperse those funds.

Mr. MacAskill commented that he disagrees with the language in the Grant Agreement and gave his reasons.

Mr. Powers explained that these Grant Agreements are when the Town, acting through the Select Board grants funds to non-Town agencies. The HAHT is a political subset of the political subdivision known as the Town of Harwich.

Mr. Kavanagh requested an opinion on whether or not the Board is required to sign this agreement.

At the request of the Board, Mr. Powers will work on this matter further.

Mr. MacAskill removed his second.

Mr. Handler removed his motion.

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IX. CONTRACTS

A. Vote to approve a contract with Woodard & Curran, Inc. in the amount of \$93,500.00 for MS4 Stormwater Year 6 Permit Compliance.

Mr. Powers explained this contract.

Mr. MacAskill moved to approve a contract with Woodard & Curran, Inc. in the amount of \$93,500.00 for MS4 Stormwater Year 6 Permit Compliance. Seconded by Mr. Handler.

Vote 4:0 in favor. Motion carried.

X. TOWN ADMINISTRATOR'S REPORT

Mr. Powers reported that there is an exempt contract because they are relying on Eric Kinsherf, CPA, LLC to continue to provide training for staff in the Treasurer/Collector's Office. The total for the contract is \$48,000 and covers March 1st through June 30, 2024.

Also the Town's first Assistant Wastewater Superintendent has been hired. He gave a brief background of Jonathan Long and noted that he is expected to start on March 28th.

Mr. Powers executed a 30B contract with Marquis Architecture, LLC to help the Historical Commission. The contract is for \$33,800 which is under budget.

XI. SELECT BOARD'S MEMBER REPORT

Mr. Handler wished the Girls Ice Hockey team good and the Boys Basketball team at Monomoy High good luck for moving forward into the next rounds.

XII. CORRESPONDENCE

None

XIII. ADJOURNMENT

Mr. Howell moved to adjourn, seconded by Mr. MacAskill.

Vote 4:0 in favor. Motion carried.

Meeting adjourned.

Respectfully submitted,
Judi Moldstad
Board Secretary

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